

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

OCT 31 1989 *alt*

SKIP L. OTTO,

Plaintiff,

vs.

RON CHAMPION and THE STATE
OF OKLAHOMA,

Defendants.

No. 88-C-587-E ✓

Jack C. Silver, Clerk
U.S. DISTRICT COURT

O R D E R

This matter is before the Court on the petition of Skip L. Otto for federal habeas corpus relief pursuant to 28 U.S.C. §2254. The Magistrate recommended on August 18, 1989 that Mr. Otto's petition be denied.

Petitioner pled guilty to a charge of second degree murder in violation of Okla.Stat.tit. 21 §701.9(B) in the state district court for Tulsa County, Oklahoma, Case No. CRF-86-2178, on January 13, 1987. He was sentenced to an indeterminate term of 45 years to life. The Oklahoma Court of Criminal Appeals modified the sentence to 45 years.

Petitioner's sole contention is that it is a violation of due process and the equal protection clause of the federal constitution for the state court to have modified his sentence to 45 years when sentences in other cases have been modified to the statutory minimum of 10 years.

Petitioner does not present grounds for federal habeas corpus relief. The sentence imposed falls within the state's statutory


limit of between 10 years and life incarceration. The statutory scheme is not violative of due process or equal protection and, thus, a sentence imposed within the statutory limits presents no federal constitutional question.

Further, the Oklahoma Court of Criminal Appeals did not violate Mr. Otto's federal constitutional rights when it changed his indeterminate sentence to a term of 45 years. The Oklahoma Post-Conviction Procedures Act, Okla.Stat.tit. 22 §1080 et seq. provides for modification of a sentence when the appeals court finds in favor of an applicant for relief. The appeals court found that it was proper to modify Mr. Otto's sentence because an indeterminate sentence could not lawfully be imposed for a crime in which the maximum incarceration was life. Mr. Otto had agreed to a minimum 45-year sentence in his guilty plea and, therefore, the appeals court modified his sentence to 45 years.

The fact other defendants in other cases received modified sentences of 10 years - the statutory minimum - is not relevant to Mr. Otto. In those cases defendants were sentenced by juries and, not being able to speculate what sentence a jury would recommend under the appropriate instructions, the appellate court modified the Defendant's sentence to the statutory minimum under the authority of Hicks v. Oklahoma, 447 U.S. 343 (1980). Here, Mr. Otto agreed to a minimum sentence of 45 years and it was, therefore, not improper for the criminal appeals court to modify his sentence to the minimum to which Otto had agreed. In any event, such a determination does not present a federal question.

IT IS THEREFORE ORDERED that the Magistrate's Report and Recommendation of August 18, 1989 is affirmed and adopted by this Court and ordered that Petitioner's application for federal habeas corpus relief under 28 U.S.C. §2254 is denied.

ORDERED this 30th day of October, 1989.



JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

SAMSON RESOURCES COMPANY,

Plaintiff,

v.

ENRON OIL & GAS COMPANY,
a corporation,

Defendant.

Case No. 89-C-708 C

PLAINTIFF'S NOTICE OF
DISMISSAL WITHOUT PREJUDICE

COMES NOW Plaintiff Samson Resources Company and pursuant to Rule 41(a)(i) does hereby file its Notice of Dismissal Without Prejudice of this action. For the record, Plaintiff states that Defendant herein has not yet answered or filed a motion for summary judgment.

Kenn J Treece
R. K. Pezold, OBA #7100
Kenneth J. Treece, #12012
BRUNE, PEZOLD, RICHEY & LEWIS
700 Sinclair Building
Six East Fifth Street
Tulsa, Oklahoma 74103
(918) 584-0506

CERTIFICATE OF HAND-DELIVERY

I, Kenneth J. Treece, hereby certify that on the 31st day of October, 1989, a true and correct copy of the above and foregoing document was delivered to the following:

J. Kevin Hayes, Esq.
William G. Bernhardt, Esq.
HALL, ESTILL, HARDWICK, GABLE,
GOLDEN & NELSON, P.C.
4100 Bank of Oklahoma Tower
One Williams Center
Tulsa, Oklahoma 74172

Kenneth J. Treece
Kenneth J. Treece

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FEDERAL DEPOSIT INSURANCE
CORPORATION, in its corporate
capacity for BANK OF COMMERCE
& TRUST COMPANY,

Plaintiff,

vs.

No. 88-C-862-C

L.B. JACKSON DRILLING COMPANY;
L.B. JACKSON, JR.; LOUIS B.
JACKSON, JR. Revocable Living
Trust; LOUIS B. JACKSON, JR.,
Trustee of the Louis B.
Jackson, Jr. Revocable Living
Trust,

Defendants.

vs.

UNITED STATES OF AMERICA,

Third-Party Defendant.

STIPULATION OF DISMISSAL WITH PREJUDICE
AS TO ALL CLAIMS, COUNTERCLAIMS, THIRD-PARTY CLAIMS
AND CROSSCLAIMS

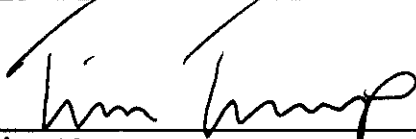
COME NOW the parties, Plaintiff Federal Deposit Insurance Corporation, in its corporate capacity for Bank of Commerce & Trust Company, Defendants L.B. Jackson Drilling Company, L.B. Jackson, Jr., Louis B. Jackson, Jr. Revocable Living Trust, and Louis B. Jackson, Jr., Trustee of the Louis B. Jackson, Jr. Revocable Living Trust, and Third-Party Defendant, United States of America, by and through their respective attorneys of record, and pursuant Rule 41(a)(1) and (c) of the Federal Rules of Civil Procedure hereby stipulate to the dismissal with prejudice of all claims, counterclaims, third-party claims and crossclaims filed or asserted by any party in the above referenced action.

Respectfully submitted,



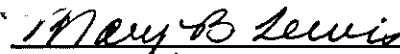
Bradley K. Beasley, OBA No. 628
Of BOESCHE MCDERMOTT & ESKRIDGE
800 Oneok Plaza
100 West 5th Street
Tulsa, Oklahoma 74103
(918) 583-1777

ATTORNEYS FOR FEDERAL
DEPOSIT INSURANCE CORPORATION



Timothy T. Trump, Esq.
Comfort Lipe & Green
2100 Mid-Continent Tower
401 South Boston
Tulsa, OK 74103

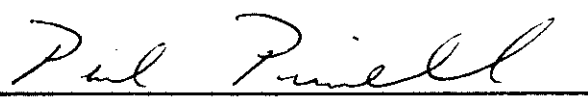
ATTORNEYS FOR L.B. JACKSON
DRILLING COMPANY



Mary Lewis, Esq.
Brune Pezold Richey & Lewis
6 East 5th Street, Suite 700
Tulsa, OK 74103

ATTORNEYS FOR L. B. JACKSON, JR.,
LOUIS B. JACKSON, JR. REVOCABLE
LIVING TRUST, LOUIS B. JACKSON,
JR., TRUSTEE OF THE LOUIS B.
JACKSON, JR. REVOCABLE LIVING
TRUST

THE UNITED STATES OF AMERICA
Tony M. Graham
U.S. Attorney for the Northern
District of Oklahoma

By 

Philip E. Pinnell,
Assistant U. S. Attorney

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

OCT 31 1989 *ok*

ROBERT SHREWDER d/b/a S & S
SALES AND ENGINEERING,

Plaintiff,

vs.

TRAVIS W. FREEMAN, et al.,

Defendants.

Jack C. Silver, Clerk
U.S. DISTRICT COURT


No. 88-C-1443-E ✓

ADMINISTRATIVE CLOSING ORDER

The Plaintiff having filed his petition in bankruptcy and these proceedings being stayed thereby, it is hereby ordered that the Clerk administratively terminate this action in his records, without prejudice to the rights of the parties to reopen the proceedings for good cause shown for the entry of any stipulation or order, or for any other purpose required to obtain a final determination of the litigation.

If, within thirty (30) days of a final adjudication of the bankruptcy proceedings the parties have not reopened for the purpose of obtaining a final determination herein, this action shall be deemed dismissed with prejudice.

ORDERED this 30th day of October, 1989.


JAMES S. ELLISON
UNITED STATES DISTRICT JUDGE


F I L E D

IT IS FURTHER ORDERED that the Plaintiff, Adair State Bank, is hereby granted judgment on its claim for breach of contract in the principal amount of Five Hundred Fifty-nine Thousand Three Hundred Eighty-four and 49/100 Dollars (\$559,384.49). In addition, prejudgment interest shall be added at the rate of fifteen percent (15%) per annum from September 19, 1986, and continuing to accrue until the day of entry of judgment at the per diem rate of Two Hundred Twenty-nine and 88/100 Dollars (\$229.88). The total judgment in favor of the Plaintiff, Adair State Bank, and against the Defendant, American Casualty Company of Reading, Pennsylvania,

is \$ 820,298.29, as of the 30th day of October, 1989. ^{for}

IT IS FURTHER ORDERED that the judgment shall bear interest as provided in Title 28 U.S.C. §1961 from the day of entry of judgment until paid in full, and that the Plaintiff, Adair State Bank, shall be awarded costs. The issue of attorney fees is hereby reserved for further Order of the Court.

ORDERED this 6th day of November, 1989.



JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED

OCT 31 1989

Jack C. Silver, Clerk
U.S. DISTRICT COURT

THRIFTY RENT-A-CAR SYSTEM,)
INC., an Oklahoma corporation,)

Plaintiff,)

vs.)

Case No. 88-C-1551-E

CLAYTON C. JOHNSON and)
ALTAMAHA AUTO LEASING, INC.,)
a corporation,)

Defendants.)

STIPULATION OF DISMISSAL WITHOUT PREJUDICE

The plaintiff, Thrifty Rent-A-Car System, Inc., by and through its counsel of record, and the defendants, Clayton C. Johnson and Altamaha Auto Leasing, Inc., by and through their counsel of record, stipulate to the dismissal without prejudice of all claims brought in this case by plaintiff. The parties further stipulate that they shall each bear their own attorney's fees and costs.

Dated this 31st day of October, 1989.

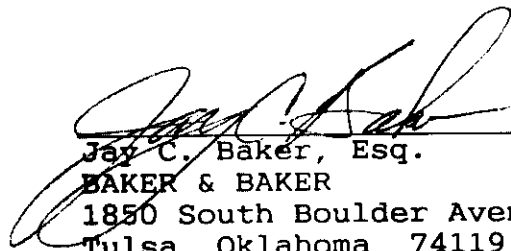
Respectfully submitted,



Dana L. Rasure, OBA #07421
Randee F. Charney, OBA #13255
BAKER, HOSTER, McSPADDEN,
CLARK, RASURE & SLICKER
800 Kennedy Building
Tulsa, Oklahoma 74103
(918) 592-5555

John M. Hickey, OBA #11100
THRIFTY RENT-A-CAR SYSTEM, INC.
4608 South Garnett Road
Tulsa, Oklahoma 74153-0250
(918) 665-9319

Attorneys for Plaintiff
Thrifty Rent-A-Car System, Inc.



Jay C. Baker, Esq.
BAKER & BAKER
1850 South Boulder Avenue
Tulsa, Oklahoma 74119

Attorney for Defendants
Clayton C. Johnson and
Altamaha Auto Leasing, Inc.

FILED

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

CLERK
COURT

ALLIED-SIGNAL, INC., a)
Delaware corporation,)
)
Plaintiff,)
)
vs.)
)
LANSING OVERHAUL & REPAIR, INC.,)
an Oklahoma corporation,)
)
Defendant.)

No. 88-C-758-B

ORDER OF DISMISSAL WITH PREJUDICE

Upon the Stipulation of Dismissal with Prejudice and Request for Entry of Order filed herein by the Plaintiff and Defendant, and pursuant to Federal Rule of Civil Procedure 41(a)(1), the Court

FINDS: That the above-styled case should be dismissed with prejudice. It is therefore

ORDERED that the above-styled and numbered case be and the same is hereby dismissed with prejudice, with each party to bear its own costs and attorneys fees.

DONE, the 31st day of Oct-, 1989.

S/ THOMAS R. BRETT

THE HONORABLE THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED
OCT 31 1989

WILLIAM T. EDWARDS,

Plaintiff,

vs.

BOB HOWE/A FINE CAR CENTER, INC.,
2839 East 11th, Tulsa, OK,

Defendant.


No. 89-C-275-B

W. C. JAMES, Clerk
U.S. DISTRICT COURT

J U D G M E N T

In keeping with the Findings of Fact and Conclusions of Law entered herein this date, Judgment is hereby entered in favor of the Plaintiff, William T. Edwards, and against the Defendant, A Fine Car Center, Inc., in the amount of One Thousand Five Hundred Dollars (\$1,500.00) plus the costs of this action if timely applied for pursuant to Local Rule 6. No attorney fee is to be awarded herein as none was requested and Plaintiff appears *pro se*. Interest is awarded on said judgment in the amount of 7.9% per annum from the date hereon.

DATED this 31ST day of Oct., 1989.


THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA

Plaintiff,

-vs-

LANELLA SINGLETON; WORLD AND
TRIBUNE FEDERAL CREDIT UNION;
COUNTY TREASURER, Tulsa County,
Oklahoma; and BOARD OF COUNTY
COMMISSIONERS, Tulsa County
Oklahoma,

Defendants.

FILED

OCT 31 1989

John J. Semler, Clerk
U.S. DISTRICT COURT

Civil Action No. 89-C-343-B

JUDGMENT OF FORECLOSURE

This matter comes on for consideration this 31st day of October, 1989. The Plaintiff appears by Tony M. Graham, United States Attorney for the Northern District of Oklahoma, through Phil Pinnell, Assistant United States Attorney; the Defendants, County Treasurer, Tulsa County, Oklahoma, and Board of County Commissioners, Tulsa County, Oklahoma, appear by Dennis Semler, Assistant District Attorney, Tulsa County Oklahoma; the Defendant/Cross-Complainant, World and Tribune Federal Credit Union, appears by its attorney Larry S. Harral; and the Defendant, Lanella Singleton, appears not, but makes default.

The Court being fully advised and having examined the file herein finds that this action was originally instituted by the Plaintiff, United States of America, as a suit based upon a certain mortgage note and foreclosure of a mortgage executed and delivered to the United States of America, acting on behalf of the Administrator of Veterans Affairs. The Plaintiff, United States of America, has by the terms of this Journal Entry, disclaimed any interest in this property in the fact that their first mortgage has been paid in full by the Defendant, Lanella Singleton, since the institution of this action.

The Court further finds that the Defendant, Lanella Singleton, acknowledged receipt of the Answer and Cross-Complaint of the Defendant, World and Tribune Federal Credit Union, on April 14, 1989; that defendant, County Treasurer, Tulsa County, Oklahoma, acknowledged receipt of Summons and Complaint on April 28, 1989; and that Defendant, Board of County Commissioners, Tulsa County, Oklahoma, acknowledged receipt of Summons and Complaint on April 28, 1989.

It appears that the Defendants, County Treasurer, Tulsa County, Oklahoma, and Board of County Commissioners, Tulsa County, Oklahoma, filed their Answers on May 17, 1989; that the Defendant, World and Tribune Federal Credit Union, filed its Answer and Cross-Complaint on May 19, 1989; and that the Defendant, Lanella Singleton, has failed to answer and her default has therefore been entered by the Clerk of this Court.

The Court finds that the Cross-Complaint of the Defendant, World and Tribune Federal Credit Union is based on a certain mortgage note and for foreclosure of a mortgage securing said mortgage note upon the following-described real property located in Tulsa County, Oklahoma, within the Northern Judicial District of Oklahoma:

Lot Twenty (20) in Block Eight (8), in SHARON HEIGHTS ADDITION to the City of Tulsa, Tulsa County, State of Oklahoma, according to the recorded Plat thereof.

The Court further finds that on November 1, 1983 the Defendant, Lanella Singleton, executed and delivered to the World and Tribune Federal Credit Union, her mortgage note in the amount of \$9,300.00, payable in monthly installments, with interest thereon at the rate of 17 percent per annum.

The Court further finds that as security for payment of the above-described note, the Defendant, Lanella Singleton, executed and delivered to the Cross-Complainant, World and Tribune Federal Credit Union, a mortgage dated November 1, 1983, covering the above-described property. Said mortgage was recorded on

November 9, 1983, in Book 4742, at Page 2059, in the records of Tulsa County, Oklahoma.

The Court further finds that the Defendant, Lanella Singleton, made default under the terms of the aforesaid note and mortgage by reason of her failure to keep the mortgage current, which default has continued, and that by reason thereof the Defendant, Lanella Singleton, is indebted to the Cross-Complainant, World and Tribune Federal Credit Union, in the principal sum of \$7,641.77, plus interest at the rate of 17 percent from May 15, 1989 until judgment, plus interest thereafter at the legal rate until fully paid, attorney's fees of \$1,000.00, and the costs of this action accrued and accruing.

The Court further finds that the Defendant, County Treasurer, Tulsa County, Oklahoma, has a lien on the property which is the subject matter of this action by virtue of personal property taxes in the amount of \$7.00 which became a lien on the property as of 1988. Said lien is inferior to the interest of the Cross-Complainant, World and Tribune Federal Credit Union.

The Court further finds that the Defendant, Board of County Commissioners, Tulsa County, Oklahoma, claims no right, title, or interest in the subject real property.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED the Cross-Complainant, World and Tribune Federal Credit Union, have and recover judgment in rem and in personam against the Defendant, Lanella Singleton, in the principal amount of Seven Thousand Six Hundred Forty-one Dollars and 77/100 (\$7,641.77), plus interest at the rate of 17 percent per annum from May 15, 1989 until judgment, plus interest thereafter at the current legal rate of 7.90 percent per annum until paid; an attorney's fee of \$1,000; the costs of this action accrued and accruing; plus any additional sums advanced or to be advanced or expended during this foreclosure action by Cross-Complainant, World and Tribune Federal Credit Union, for taxes, insurance, abstracting, or sums for the preservation of the subject property.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Defendant, County Treasurer, Tulsa County, Oklahoma, have and recover judgment in the amount of Seven Dollars and No/100 (\$7.00) for personal property taxes for the year of 1988, plus the costs of this action.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Defendant, Board of County Commissioners, Tulsa County, Oklahoma, has no right, title, or interest in the subject real property.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that an Order of Sale shall be issued to the United States Marshall for the Northern District of Oklahoma commanding him to advertise and sell with appraisement, the real property involved herein and apply the proceeds of the sale as follows:

FIRST:

In payment of the costs of this action accrued and accruing incurred by Cross-Complainant, World and Tribune Federal Credit Union;

SECOND:

In payment of the principal judgment of the Cross-Complainant, World and Tribune Federal Credit Union, in the sum of \$7,641.77, with interest thereon at the rate of 17 percent per annum from May 15, 1989, until paid, together with an attorney's fee in the amount of \$1,000.00 plus court costs expended herein;

THIRD:

In payment of the Defendant, County Treasurer, Tulsa County, Oklahoma, in the amount of \$7.00, personal property taxes which are currently due an owing.

The surplus from said sale, if any, shall be deposited with the Clerk of the Court to await further Order of the Court.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that from and after the sale of the above-described real property, under and by virtue of this judgment and decree, all of the Defendants and all persons claiming under them since the filing of the Complaint, as

well as the Plaintiff, United States of America, be and they are forever barred and foreclosed of any right, title, interest, or claim in or to the subject real property or any part thereof.

S/ THOMAS R. BRETT

UNITED STATES DISTRICT JUDGE

APPROVED:

TONY M. GRAHAM
United States Attorney

PHIL PINNELL, OBA #7169
Assistant United States Attorney

LARRY S. HARRAL, OBA #3881
Attorney for Defendant - Cross-Complainant
World and Tribune Federal Credit Union

DENNIS SEMLER, OBA #
Assistant District Attorney
Attorney for Defendants,
County Treasurer and
Board of County Commissioners,
Tulsa County, Oklahoma

11

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED

OCT 31 1989

CLERK
DISTRICT COURT

JOYCE K. PRICE,

Plaintiff,

vs.

WHITTLE COMMUNICATIONS, L.P.,
a limited partnership,

Defendant.

Case No. 89-C-763 B ✓

DISMISSAL WITHOUT PREJUDICE
AS TO THE DEFENDANT, WHITTLE COMMUNICATION, INC., ONLY

COMES NOW the Plaintiff, JOYCE K. PRICE, by and through her attorney of record, R. JAY McATEE, and hereby dismisses without prejudice her claim against the Defendant, WHITTLE COMMUNICATION, INC., in the above entitled cause.

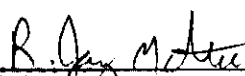
R. Jay McAttee
R. JAY McATEE, OBA #10389

Attorneys for Plaintiff
Law Offices of Daniel W. Lowe, P.C.
1401 South Cheyenne
Tulsa, Oklahoma 74119
(918) 582-2500

5

CERTIFICATE OF MAILING

I, the undersigned, do hereby certify and state that on this 31 day of October, 1989, I mailed a true and correct copy of the above and foregoing instrument by U. S. mail to Howard Shapiro, 650 Poydras Center, Suite 2800, New Orleans, Louisiana 70130 and Charles Shipley, 2401 First National Tower, Tulsa, Oklahoma 74103 with the proper postage thereon being fully prepaid.



R. JAY McATEE of the
Law Offices of Daniel W. Lowe, P.C.

JWN/lc
10/16/89

FILED

IN THE UNITED STATES DISTRICT COURT FOR THE OCT 27 1989
NORTHERN DISTRICT OF OKLAHOMA

Jack C. Silver, Clerk
U.S. DISTRICT COURT

DENNIS LLOYD EARP, and
PEGGY EARP, Plaintiff's Spouse,

Plaintiffs,

vs.

ANCHOR PACKING COMPANY, et al.,

Defendants.

No. 88-C-704-B ✓

STIPULATED JOINT MOTION FOR,
AND ORDER OF, DISMISSAL
WITHOUT PREJUDICE AS TO DEFENDANT
VERMONT TALC, INC.

Fed.R.Civ.P. 41(a)(2)

M O T I O N

Plaintiffs and Defendant Vermont Talc, Inc., jointly
move this Court for an Order of Dismissal Without Prejudice of
the above-styled action.

FILED

O R D E R

Upon the above and foregoing Joint and Stipulated Motion
for Order of Dismissal Without Prejudice, the above-styled action
is hereby dismissed without prejudice as to Vermont Talc, Inc.,
each party to bear its own costs.

S/ THOMAS R. BRETT

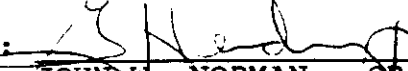
THOMAS R. BRETT

U.S. DISTRICT COURT JUDGE


NOTE: THIS ORDER IS TO BE MAILED
BY COURT TO ALL COUNSEL AND
PROSECUTANTS IMMEDIATELY
UPON RECEIPT.

APPROVED:

LAW OFFICES OF
JOHN W. NORMAN INCORPORATED
ATTORNEYS FOR PLAINTIFFS

By: 
JOHN W. NORMAN - OBA #6699
GINA L. HENDRYX - OBA #10330
Renaissance Centre East
127 N.W. 10th
Oklahoma City, OK 73103-4903
405/272-0200

LOONEY, NICHOLS, JOHNSON & HAYES
ATTORNEYS FOR VERMONT TALC, INC.

By: 
CHARLES J. WATTS
528 N.W. 12th
Oklahoma City, OK 73103
405/235-7641

JWN/lc
10/16/89

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

OCT 27 1989

RUFUS HOWARD HOLT, and
LETHA L. HOLT, Plaintiff's Spouse,
Plaintiffs,

Jack C. Silver, Clerk
U.S. DISTRICT COURT

vs.

No. 88-C-707-B

ANCHOR PACKING COMPANY, et al.,
Defendants.

STIPULATED JOINT MOTION FOR,
AND ORDER OF, DISMISSAL
WITHOUT PREJUDICE AS TO DEFENDANT
VERMONT TALC, INC.

Fed.R.Civ.P. 41(a)(2)

M O T I O N

Plaintiffs and Defendant Vermont Talc, Inc., jointly
move this Court for an Order of Dismissal Without Prejudice of
the above-styled action.

O R D E R

Upon the above and foregoing Joint and Stipulated Motion
for Order of Dismissal Without Prejudice, the above-styled action
is hereby dismissed without prejudice as to Vermont Talc, Inc.,
each party to bear its own costs.

/s/ THOMAS R. BRETT

FILED

THOMAS R. BRETT
U.S. DISTRICT COURT JUDGE

Jack C. Silver, Clerk
U.S. DISTRICT COURT

NOTE: THIS ORDER IS TO BE MAILED
BY MOVANT TO ALL CO-INSEL AND
PRO SE LITIGANTS IMMEDIATELY
UPON RECEIPT.

APPROVED:

LAW OFFICES OF
JOHN W. NORMAN INCORPORATED
ATTORNEYS FOR PLAINTIFFS

By: 

JOHN W. NORMAN - OBA #6699
GINA L. HENDRYX - OBA #10330
Renaissance Centre East
127 N.W. 10th
Oklahoma City, OK 73103-4903
405/272-0200

LOONEY, NICHOLS, JOHNSON & HAYES
ATTORNEYS FOR VERMONT TALC, INC.

By: 

CHARLES J. WATTS
528 N.W. 12th
Oklahoma City, OK 73103
405/235-7641

JWN/lc
10/16/89

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

OCT 27 1989

BILLY FRANKLIN WILLIAMS,

Plaintiff,

vs.

ANCHOR PACKING COMPANY, et al.,

Defendants.

Jack C. Silver, Clerk
U.S. DISTRICT COURT

No. 88-C-716-B

STIPULATED JOINT MOTION FOR,
AND ORDER OF, DISMISSAL
WITHOUT PREJUDICE AS TO DEFENDANT
VERMONT TALC, INC.

Fed.R.Civ.P. 41(a)(2)

M O T I O N

Plaintiff and Defendant Vermont Talc, Inc., jointly
move this Court for an Order of Dismissal Without Prejudice of
the above-styled action.

O R D E R

Upon the above and foregoing Joint and Stipulated Motion
for Order of Dismissal Without Prejudice, the above-styled action
is hereby dismissed without prejudice as to Vermont Talc, Inc.,
each party to bear its own costs.

S/ THOMAS R. BRETT

FILED

U.S. DISTRICT COURT

THOMAS R. BRETT
U.S. DISTRICT COURT JUDGE

NOTE: THIS ORDER IS TO BE MAILED
BY THE CLERK TO ALL COUNSEL AND
PROSECUTORS IMMEDIATELY
UPON RECEIPT.

APPROVED:

LAW OFFICES OF
JOHN W. NORMAN INCORPORATED
ATTORNEYS FOR PLAINTIFF

By: 

JOHN W. NORMAN - OBA #6699
GINA L. HENDRYX - OBA #10330
Renaissance Centre East
127 N.W. 10th
Oklahoma City, OK 73103-4903
405/272-0200

LOONEY, NICHOLS, JOHNSON & HAYES
ATTORNEYS FOR VERMONT TALC, INC.

By: 

CHARLES J. WATTS
528 N.W. 12th
Oklahoma City, OK 73103
405/235-7641

JWN/lc
10/16/89

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

OCT 27 1989

JAY WILLIAM BLAIR, and
MILDRED L. BLAIR, Plaintiff's Spouse,
Plaintiffs,

Jack C. Silver, Clerk
U.S. DISTRICT COURT

vs.

No. 88-C-720-B

ANCHOR PACKING COMPANY, et al.,
Defendants.

STIPULATED JOINT MOTION FOR,
AND ORDER OF, DISMISSAL
WITHOUT PREJUDICE AS TO DEFENDANT
VERMONT TALC, INC.

Fed.R.Civ.P. 41(a)(2)

M O T I O N

Plaintiffs and Defendant Vermont Talc, Inc., jointly
move this Court for an Order of Dismissal Without Prejudice of
the above-styled action.

O R D E R

Upon the above and foregoing Joint and Stipulated Motion
for Order of Dismissal Without Prejudice, the above-styled action
is hereby dismissed without prejudice as to Vermont Talc, Inc.,
each party to bear its own costs.

FILED

S/ THOMAS R. BRETT

THOMAS R. BRETT
U.S. DISTRICT COURT JUDGE

Jack C. Silver, Clerk
U.S. DISTRICT COURT

NOTE: THIS ORDER IS TO BE MAILED
BY MOVING PARTY TO COUNSEL AND
PRO SE LITIGANT IMMEDIATELY
UPON RECEIPT.

APPROVED:

LAW OFFICES OF
JOHN W. NORMAN INCORPORATED
ATTORNEYS FOR PLAINTIFFS

By: 

JOHN W. NORMAN - OBA #6699
GINA L. HENDRYX - OBA #10330
Renaissance Centre East
127 N.W. 10th
Oklahoma City, OK 73103-4903
405/272-0200

LOONEY, NICHOLS, JOHNSON & HAYES
ATTORNEYS FOR VERMONT TALC, INC.

By: 

CHARLES J. WATTS
528 N.W. 12th
Oklahoma City, OK 73103
405/235-7641

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

COMMUNITY FEDERAL SAVINGS AND
LOAN ASSOCIATION, a federally
chartered savings and loan
association,

Plaintiff,

vs.

RICKEY LOREN WASHINGTON;
FORREST JEAN WASHINGTON,
formerly known as Forrest
Jean Youngblood; ADMINISTRATOR
OF VETERANS AFFAIRS; JOHN W.
KLEND; and KARIN CHATFIELD,

Defendants,

and

UNITED STATES OF AMERICA on
behalf of the Administrator
of Veterans Affairs,

Third-Party Plaintiff,

vs.

CREANN MOSLEY; MIDAMERICA
SAVINGS AND LOAN ASSOCIATION;
COUNTY TREASURER, Tulsa County,
Oklahoma; BOARD OF COUNTY
COMMISSIONERS, Tulsa County,
Oklahoma; and STATE OF OKLAHOMA
ex rel. OKLAHOMA TAX COMMISSION;

Third-Party Defendants.

FILED

U.S. District Court
Tulsa, Oklahoma

Civil Action No. 89-C-0019-B

Case No. CJ-88-06724

(Tulsa County District Court)

JUDGMENT OF FORECLOSURE

This matter comes on for consideration this 30th day
of Oct., 1989. The Third-Party Plaintiff appears by
Tony M. Graham, United States Attorney for the Northern District
of Oklahoma, through Phil Pinnell, Assistant United States
Attorney; the Plaintiff, Local America Bank of Tulsa, formerly

known as Community Federal Savings and Loan Association, a federally chartered savings and loan association, and as Successor-in-interest to MidAmerica Federal Savings and Loan Association, appears by its attorney Ronald O. Ray, Jr.; the Defendants, Forrest Jean Washington, formerly known as Forrest Jean Youngblood, John W. Klenda and Karin Chatfield, appear not, having previously filed their Disclaimers; the Third-Party Defendants, County Treasurer, Tulsa County, Oklahoma, and Board of County Commissioners, Tulsa County, Oklahoma, appear by J. Dennis Semler, Assistant District Attorney, Tulsa County, Oklahoma; the Third-Party Defendant, State of Oklahoma ex rel. Oklahoma Tax Commission, appears by its attorney Lisa Haws; and the Defendant, Rickey Loren Washington, and the Third-Party Defendant, Creann Mosley, appear not, but make default.

The Court being fully advised and having examined the file herein finds that the Plaintiff, Local America Bank of Tulsa, formerly known as Community Federal Savings and Loan Association, a federally chartered savings and loan association, acknowledged receipt of Summons and Third-Party Complaint on January 19, 1989; that the Defendant, Rickey Loren Washington, was served with Summons and Third-Party Amended Complaint on June 6, 1989; that the Third-Party Defendant, Local America Bank of Tulsa as Successor-in-interest to MidAmerica Federal Savings and Loan Association, acknowledged receipt of Summons and Third-Party Complaint on January 19, 1989; that the Third-Party Defendant, State of Oklahoma ex rel. Oklahoma Tax Commission,

acknowledged receipt of Summons and Third-Party Amended Complaint on February 27, 1989; that Defendant, County Treasurer, Tulsa County, Oklahoma, acknowledged receipt of Summons and Third-Party Complaint on January 18, 1989; and that Defendant, Board of County Commissioners, Tulsa County, Oklahoma, acknowledged receipt of Summons and Third-Party Complaint on January 17, 1989.

The Court further finds that the Third-Party Defendant, Creann Mosley, was served by publishing notice of this action in the Tulsa Daily Business Journal & Legal Record, a newspaper of general circulation in Tulsa County, Oklahoma, once a week for six (6) consecutive weeks beginning June 5, 1989, and continuing to July 10, 1989, as more fully appears from the verified proof of publication duly filed herein; and that this action is one in which service by publication is authorized by 12 O.S. Section 2004(C)(3)(c). Counsel for the Third-Party Plaintiff does not know and with due diligence cannot ascertain the whereabouts of the Third-Party Defendant, Creann Mosley, and service cannot be made upon said Third-Party Defendant within the Northern Judicial District of Oklahoma or the State of Oklahoma by any other method, or upon said Third-Party Defendant without the Northern Judicial District of Oklahoma or the State of Oklahoma by any other method, as more fully appears from the evidentiary affidavit of a bonded abstracter filed herein with respect to the last known address of the Third-Party Defendant, Creann Mosley. The Court conducted an inquiry into the sufficiency of the service by publication to comply with due process of law and based upon the evidence presented together with affidavit and

documentary evidence finds that the Third-Party Plaintiff, United States of America, acting on behalf of the Secretary of Veterans Affairs, and its attorneys, Tony M. Graham, United States Attorney for the Northern District of Oklahoma, through Phil Pinnell, Assistant United States Attorney, fully exercised due diligence in ascertaining the true name and identity of the party served by publication with respect to her present or last known place of residence and/or mailing address. The Court accordingly approves and confirms that the service by publication is sufficient to confer jurisdiction upon this Court to enter the relief sought by the Third-Party Plaintiff, both as to the subject matter and the Third-Party Defendant served by publication.

It appears that the Third-Party Defendants, County Treasurer, Tulsa County, Oklahoma, and Board of County Commissioners, Tulsa County, Oklahoma, filed their Answers on February 1, 1989 and March 7, 1989; the Third-Party Defendant, State of Oklahoma ex rel. Oklahoma Tax Commission, filed its Answer and Cross-Petition on March 6, 1989; the Defendant, Forrest Jean Washington, formerly known as Forrest Jean Youngblood, filed her Disclaimer on February 23, 1989; the Defendant, John W. Klenda, filed his Disclaimer on February 23, 1989; the Defendant, Karin Chatfield, filed her Disclaimer on February 13, 1989; and that the Defendant, Rickey Loren Washington, and Third-Party Defendant, Creann Mosley, have failed to answer and their default has therefore been entered by the Clerk of this Court.

The Court further finds that the Plaintiff's Petition in Foreclosure was initially filed in the District Court for Tulsa County, State of Oklahoma, on November 14, 1988, Case No. CJ-88-06724, and was effectively removed to this Court on the 11th day of January, 1989.

The Court further finds that this is a suit based upon a certain mortgage note and for foreclosure of a mortgage securing said mortgage note upon the following described real property located in Tulsa County, Oklahoma, within the Northern Judicial District of Oklahoma:

Lot Fifteen (15), Block Four (4), UNITY ADDITION, Blocks 1 through 5, an Addition in Tulsa County, State of Oklahoma, according to the recorded plat thereof.

The Court further finds that on December 14, 1979, the Third-Party Defendant, Creann Mosley, executed and delivered to the United States of America, acting on behalf of the Administrator of Veterans Affairs, now known as Secretary of Veterans Affairs, her mortgage note in the amount of \$43,000.00, payable in monthly installments, with interest thereon at the rate of 10.5 percent per annum.

The Court further finds that as security for the payment of the above-described note, the Third-Party Defendant, Creann Mosley, executed and delivered to the United States of America, acting on behalf of the Administrator of Veterans Affairs, now known as Secretary of Veterans Affairs, a mortgage dated December 14, 1979, covering the above-described property. Said mortgage was recorded on December 14, 1979, in Book 4447, Page 703, in the records of Tulsa County, Oklahoma.

The Court further finds that the Third-Party Defendant, Creann Mosley, made default under the terms of the aforesaid note and mortgage by reason of her failure to make the monthly installments due thereon, which default has continued, and that by reason thereof the Third-Party Defendant, Creann Mosley, is indebted to the Third-Party Plaintiff in the principal sum of \$40,239.12, plus interest at the rate of 10.5 percent per annum from May 1, 1988 until judgment, plus interest thereafter at the legal rate until fully paid, and the costs of this action accrued and accruing.

The Court further finds that the Plaintiff, Local America Bank of Tulsa, formerly known as Community Federal Savings and Loan Association, a federally chartered savings and loan association, as Successor-in-interest to MidAmerica Federal Savings and Loan Association, has a lien on the property which is the subject matter of this action by virtue of a promissory note and mortgage made, executed and delivered by Rickey Loren Washington and Forrest Jean Washington, and filed of record in the records of the County Clerk of Tulsa County, Oklahoma, in Book 4822, Page 454, in the principal sum of \$13,902.17, together with interest thereon from April 30, 1988 through October 27, 1988, in the sum of \$680.03, and thereafter at the rate of \$3.84 per diem, as may be adjusted from time to time as provided for in the Promissory Note, until paid, late charges in the sum of \$104.00, life insurance premiums in the amount of \$17.48, and all costs including an attorney's fee of \$2,000.00.

The Court further finds that on August 31, 1988, the Federal Savings and Loan Insurance Corporation (FSLIC) was appointed receiver for the assets of MidAmerica Federal Savings and Loan Association.

The Court further finds that the promissory note and mortgage executed by Rickey Loren Washington and Forrest Jean Washington in favor of MidAmerica Federal Savings and Loan Association were assigned to Community Federal Savings and Loan Association pursuant to that certain Acquisition Agreement dated August 31, 1988, by and between FSLIC and Community Federal Savings and Loan Association. Therefore, any right, title, or interest of MidAmerica in the subject real property has been assigned to Community Federal Savings and Loan Association, now known as Local America Bank of Tulsa.

The Court further finds that the Defendant, Rickey Loren Washington, is in default and has no right, title, or interest in the subject real property.

The Court further finds that the Defendants, Forrest Jean Washington, formerly known as Forrest Jean Youngblood, John W. Klenda, and Karin Chatfield, disclaim any right, title, or interest in the subject real property.

The Court further finds that the Third-Party Defendant, State of Oklahoma ex rel. Oklahoma Tax Commission, has a lien on the property which is the subject matter of this action by virtue of Income Tax Warrant No. IT188019570 against Rickey L. and Forrest J. Washington, dated October 27, 1988, and filed of record in Tulsa County, Oklahoma, on November 3, 1988, in the principal amount of \$827.74, plus penalties and interest.

The Court further finds that the Third-Party Defendant, County Treasurer, Tulsa County, Oklahoma, has a lien on the property which is the subject matter of this action by virtue of personal property taxes in the amount of \$15.00 which became a lien on the property as of 1988. Said lien is inferior to the interest of the Plaintiff, United States of America.

The Court further finds that the Third-Party Defendant, Board of County Commissioners, Tulsa County, Oklahoma, claims no right, title, or interest in the subject real property.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the Third-Party Plaintiff have and recover judgment in rem against the Third-Party Defendant, Creann Mosley, and against the Plaintiff, Local America Bank of Tulsa, formerly known as Community Federal Savings and Loan Association, a federally chartered savings and loan association, as Successor-in-interest to MidAmerica Federal Savings and Loan Association, in the principal sum of \$40,239.12, plus interest at the rate of 10.5 percent per annum from May 1, 1988 until judgment, plus interest thereafter at the current legal rate of 7.90 percent per annum until paid, plus the costs of this action accrued and accruing, plus any additional sums advanced or to be advanced or expended during this foreclosure action by Third-Party Plaintiff for taxes, insurance, abstracting, or sums for the preservation of the subject property.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that any personal liability against the Defendants, Rickey Loren Washington and Forrest Jean Washington, formerly known as Forrest Jean

Youngblood, in favor of the Plaintiff, Local America Bank of Tulsa, formerly known as Community Federal Savings and Loan Association, a federally chartered savings and loan association, as Successor-in-interest to MidAmerica Federal Savings and Loan Association, is hereby reserved.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Defendants, Rickey Loren Washington, Forrest Jean Washington, formerly known as Forrest Jean Youngblood, John W. Klenda, and Karin Chatfield, and Third-Party Defendant, Board of County Commissioners, Tulsa County, Oklahoma, have no right, title, or interest in the subject real property.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Third-Party Defendant, State of Oklahoma ex rel. Oklahoma Tax Commission, have and recover judgment against Rickey L. and Forrest J. Washington in the principal amount of \$827.74, plus penalties and interest, by virtue of Income Tax Warrant No. IT188019570, dated October 27, 1988, and filed of record in Tulsa County, Oklahoma, on November 3, 1988.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Third-Party Defendant, County Treasurer, Tulsa County, Oklahoma, have and recover judgment in the amount of \$15.00 for personal property taxes which became a lien on the property as of 1988.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that an Order of Sale shall be issued to the United States Marshal for the Northern District of Oklahoma, commanding him to advertise and sell with appraisement the real property involved herein and apply the proceeds of the sale as follows:

First:

In payment of the costs of this action accrued and accruing incurred by the Third-Party Plaintiff, including the costs of sale of said real property;

Second:

In payment of the judgment rendered herein in favor of the Third-Party Plaintiff.

The surplus from said sale, if any, shall be deposited with the Clerk of the Court to await further Order of the Court as to the respective priorities to said surplus, if any.

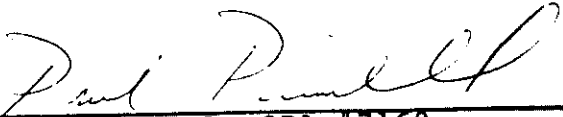
IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that from and after the sale of the above-described real property, under and by virtue of this judgment and decree, the Plaintiff, all of the Defendants and Third-Party Defendants and all persons claiming under them since the filing of the Third-Party Complaint, be and they are forever barred and foreclosed of any right, title, interest or claim in or to the subject real property or any part thereof.

S/ THOMAS R. BRETT


UNITED STATES DISTRICT JUDGE

APPROVED:

TONY M. GRAHAM
United States Attorney




PHIL PINNELL, OBA #7169
Assistant United States Attorney



J. DENNIS SEMLER, OBA #8076
Assistant District Attorney
Attorney for Defendants,
County Treasurer and
Board of County Commissioners,
Tulsa County, Oklahoma

Judgment of Foreclosure
Civil Action No. 89-C-0019-B



RONALD O. RAY, JR., OBA #10936

RANDALL J. SNAPP, OBA #11169

Attorneys for Plaintiff,

Local America Bank of Tulsa,
formerly known as Community Federal
Savings and Loan Association, a
federally chartered savings and
loan association, and as Successor-
in-interest to MidAmerica Federal
Savings and Loan Association

Judgment of Foreclosure

Civil Action No. 89-C-0019-B

Lisa Haws
LISA HAWS, OBA #12695
Attorney for Third-Party Defendant,
State of Oklahoma ex rel.
Oklahoma Tax Commission

Judgment of Foreclosure
Civil Action No. 89-C-0019-B

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

MARKETING CONTROL CENTER, INC. §
and LARRY G. GIBBONS, §
§
Plaintiffs, §
§
V. §
§
DESMOND A. O'CONNOR, and §
HYGIENE PRODUCTS AND SERVICES, §
INC., §
§
Defendants. §

CIVIL ACTION NO.
88-C1665C

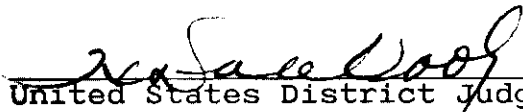
FILED
OCT 3 1989
Clerk
U.S. DISTRICT COURT

AGREED ORDER OF DISMISSAL

Plaintiffs and Defendants have moved to dismiss this action and have informed the Court that all matters of fact and things in controversy between them have been fully and finally compromised and settled. It is; therefore

ORDERED that the above-entitled and numbered action is hereby **DISMISSED WITH PREJUDICE** to the rights of all parties to refile it in whole or in part.

Signed this 30 day of Oct, 1989.


United States District Judge

APPROVED:

HEAD & JOHNSON, P.A.

By: 

William C. Donovan, III
228 West 17th Place
Tulsa, Oklahoma 74119
(918) 584-4187

ATTORNEY FOR PLAINTIFFS

JOHNSON & GIBBS
A Professional Corporation

By: 

Thomas L. Cantrell
Daniel P. Callahan
900 Jackson Street
Dallas, Texas 75202-4499
(214) 977-9000

ATTORNEYS FOR DEFENDANTS

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

F I L E D

OCT 30 1989

C & L MARKETING, INC.,
an Oklahoma corporation,

Plaintiff,

vs.

EMCAT, INC., a New Mexico
corporation; and CLAUD W.
WALKER,

Defendants.

Jack C. Silver, Clerk
U.S. DISTRICT COURT

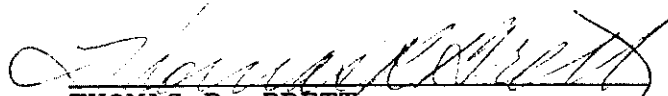
No. 89-C-587-B ✓

J U D G M E N T

Pursuant to the Findings of Fact and Conclusions of Law filed contemporaneous with this Judgment, Judgment is hereby entered in favor of the Defendants, EMCAT, Inc., and Claud W. Walker, against the Plaintiff, C & L Marketing, Inc., as follows: IT IS HEREBY ADJUDGED that the parties' emission catalyst exclusive distributor license agreement dated August 31, 1988 (Plaintiff's Exhibit 1) is hereby declared terminated for cause on July 1, 1989; AND IT IS FURTHER ADJUDGED that the parties' oil field catalyst exclusive distributorship license agreement dated November 1, 1988 (Defendants' Exhibit 2) is declared terminated at will on August 25, 1989; AND IT IS FURTHER ADJUDGED that Defendants, EMCAT, Inc. and Walker, are awarded a judgment in the amount of Seven Thousand Dollars (\$7,000.00), against the Plaintiff, C & L Marketing, Inc., plus interest at the rate of 6% from August 4, 1989 to this date, and at the rate of 7.9% after the date hereon. IT IS FURTHER ADJUDGED costs are hereby assessed against the Plaintiff, C & L

Marketing, Inc., if properly applied for pursuant to Local Rule,
and the parties are to pay their own respective attorney's fees.

DATED this 30th day of Oct., 1989.



THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED

SEP 27 1988

CLERK
U.S. DISTRICT COURT

ORVILLE PIERCE, JR. and NICKI PIERCE,)	
)	
Plaintiffs,)	
)	
v.)	No. 88-C-1417-B
)	
UNITED STATES FIDELITY & GUARANTY, an)	
insurance corporation,)	
)	
Defendant,)	
)	
v.)	
)	
MARTI DYAN MCGINNIS,)	
)	
Third-Party Defendant,)	
)	
v.)	
)	
EMPLOYERS NATIONAL INSURANCE CORPORATION,)	
)	
Intervenor.)	

AGREED JUDGMENT

This matter comes on for consideration of the Motions for Partial Summary Judgment submitted by the Defendant, United States Fidelity & Guaranty ("USF&G"), and the Intervenor, Employers National Insurance Corporation ("Employers National"). Said Motions concern the issue between USF&G and Employers National as to their respective uninsured motorist coverage relative to the Plaintiff, Orville Pierce, Jr.

RECITALS

The Plaintiff, Orville Pierce, Jr., was injured by the alleged negligence of Marti Dyan McGinnis, an alleged uninsured motorist.

A settlement has been reached by and between the Plaintiff, Orville Pierce, Jr., and the insurance companies, USF&G and Employers National, leaving for the decision of this Court the respective liability of USF&G and Employers National under the applicable insurance policies.

JUDGMENT

Having considered the Briefs submitted by USF&G and Employers National, it is the decision of this Court that the Motion for Summary Judgment submitted by Employers National is hereby granted and the Cross-Motion for Summary Judgment of USF&G is hereby denied.

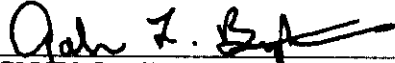
The Court concludes that liability of Employers National is one eleventh (1/11th) and liability of USF&G is ten elevenths (10/11ths). Accordingly, it is the judgment of this Court that the settlement amount of Sixteen Thousand Five Hundred Forty-Six Dollars (\$16,546.00) is to be paid according to the above-noted percentages. The Intervenor, Employers National is ordered to pay One Thousand Five Hundred Four Dollars (\$1,504.00) which represents one eleventh (1/11th) of the total settlement amount of Sixteen Thousand Five Hundred Forty-Six Dollars (\$16,546.00). The Defendant, USF&G is ordered to pay Fifteen Thousand Forty-Two Dollars (\$15,042.00) which represents ten elevenths (10/11ths) of the total settlement amount of Sixteen Thousand Five Hundred Forty-Six Dollars (\$16,546.00).

IT IS THE ORDER, JUDGMENT AND DECREE of this Court that USF&G pay to the Plaintiff, Orville Pierce, Jr., the amount of Fifteen Thousand Forty-Two Dollars (\$15,042.00) and the Intervenor, Employers National pay to the Plaintiff, Orville Pierce, Jr., One Thousand Five Hundred Four Dollars (\$1,504.00).

Dated this 26th day of Oct., 1989.


JUDGE BRETT

APPROVED AS TO FORM & CONTENT



GALEN L. BRITTINGHAM, Intervenor,
attorney for Employers National
Insurance Corporation



HARRY PARRISH, attorney for
Defendant, USF&G

**IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA**

OCT 27 1986

JACK D. [unclear] CLERK
U.S. DISTRICT COURT

DYCO PETROLEUM CORP.,

Plaintiff,

vs.

ANR PIPELINE COMPANY,

Defendant.

No. 86-C-1097-C

ORDER

Before the Court is the motion of ANR Pipeline Company (ANR) for summary judgment on Dyco Petroleum Corporation's (Dyco) Fifth, Sixth, and Seventh Causes of Action contained in the Fourth Amended Complaint, asserting claims for breach of contract, intentional damage to property and punitive damages. These causes of action are commonly referred to as "drainage claims" wherein Dyco alleges that ANR has failed to protect Dyco's reserves against drainage.

On Dyco's Fifth Cause of Action for breach of contract, ANR seeks judgment asserting that Dyco did not comply with a condition precedent to enforceability of this contract provision. The provision in dispute is contained within the Gas Purchase Contract covering the J. C. Walters #1-19¹ wells, and provides as follows:

In the event Buyer's purchases of gas hereunder are insufficient to provide Seller with a ratable share of the total withdrawals by all producers from each reservoir from which gas covered hereby is being withdrawn and there is available from Seller sufficient gas to enable Seller to deliver to Buyer such ratable share, then to the extent of the capacity of the pipeline or lines through which Seller's gas is to flow, Seller may, by notice to Buyer in writing accompanied by evidence of such drainage, require Buyer to increase

¹The parties have advised the Court that all claims relating to the J. C. Walters #2-A well have been withdrawn by plaintiff Dyco.

its purchases hereunder over a reasonable period of time to the extent necessary to enable Seller to sell hereunder its current ratable proportion of the total withdrawals of gas from said reservoirs, and in addition thereto, such quantities of gas as may be necessary to enable Seller to sell, over a reasonable period of time, any accumulated net deficiencies which may have occurred. In the event that Buyer, after receipt of such request from Seller, cannot because of insufficient pipeline capacity increase its purchases to the extent necessary to enable Seller to sell current ratable quantities of gas, and any such accumulated net deficiency which may exist, and does not forthwith proceed with due diligence and thereafter within a reasonable time effect the necessary increase in such pipeline capacity, then Buyer shall upon request from Seller forthwith release in writing from this Agreement sufficient quantities of gas reserves and associated deliverability to enable Seller to fully remedy such situation. Buyer shall not be obligated to purchase and receive in excess of the volumes provided under this Agreement to the extent and so long as Seller within such volumes (without jeopardizing its leaseholds) is able to decrease its withdrawals from other reservoirs subject hereto and increase its withdrawals from the reservoir from which it has not been able to obtain ratable withdrawal and thereby prevent and remedy the complained of drainage.

Paragraph 5, Article IV ("Quantity") Gas Purchase Contract, dated March 31, 1980, amended October 18, 1984, January 15, 1985 and March 12, 1986. (emphasis added).

Under this provision, Dyco must give ANR "written notice accompanied by evidence of ... drainage" before ANR has an obligation to increase its purchase of gas over a reasonable period of time.

In its motion, ANR contends that Dyco failed to furnish ANR with written notice accompanied by evidence of drainage regarding the J. C. Walters #1-19 well and therefore Dyco has no remedy against ANR under this provision.

The Court has reviewed the parties' briefs, exhibits and legal authorities. After careful consideration, the Court finds and concludes as follows.

IN ORDER TO ENFORCE THE PROVISION IN QUESTION DYCO MUST COMPLY WITH THE REQUIREMENTS SET FORTH IN THE PROVISION. Dyco is obligated to provide notice to ANR or the contractual remedy is not

therefore it is not unconscionable for the Court to enforce the plain and unambiguous provisions contained in their contract. The Court will not make a contract for the parties. Its function is to interpret and enforce the agreement as actually made. MGIK Indemnity Corp. v. Central Bank of Monroe, 838 F.2d 1382, 1386 (5th Cir. 1988). The failure to restrict the rights of one party to the terms and conditions of an expressed agreement would expose the other party to liability outside the scope of the contract.

"A right of action requiring notice of a condition precedent cannot be enforced unless the notice provided for has been given." Au Rustproofing Center v. Gulf Oil Corp., 755 F.2d 1231 (6th Cir. 1985). To allow recovery in the absence of compliance with a condition precedent would be unreasonable and inequitable and would establish a dangerous precedent, inviting obvious instances of abuse.

THE PROVISION REQUIRES WRITTEN NOTICE, ACCOMPANIED BY EVIDENCE OF DRAINAGE. Dyco contends it satisfied the "written notice" and "evidence" requirements through a letter sent by William Liedtke, III, Manager of Gas Marketing and Joint Ventures for Trigg Drilling Company (the operator of the J. C. Walters #1-19 well) to Wade Lambel, Superintendent of Gas Supply for Michigan Wisconsin Pipeline Company, the predecessor to ANR dated July 29, 1981.

Additionally, Dyco relies on a letter sent by an interest owner, Walter Duncan, to ANR dated January 28, 1986 advising ANR of drainage.

Alternatively, Dyco offers an "inter-correspondence" dated October 13, 1981 sent by an employee of ANR, Hugh Morgan, to show that ANR had actual notice of drainage occurring and therefore furnishing written notice would be futile.

The Court finds that Dyco has not satisfied the written notice requirement. There is no evidence that notice was sent by Dyco to ANR. The contract specifies that notice be given by the "seller". Dyco offered no evidence to show that William Liedtke (the operator) or Walter Duncan (other interest owners) are listed under the contract definition of "seller". Therefore any alleged notice from them, written or actual, does not satisfy the contractual conditions.

THE REQUIREMENT FOR WRITTEN NOTICE IS NOT INVALID AND VOID UNDER THE OKLAHOMA CONSTITUTION, ARTICLE 23, SECTION 9. This section provides:

Any provision of any contract or agreement, express or implied, stipulating for notice or demand other than such as may be provided by law, as a condition precedent to establish any claim, demand or liability, shall be null and void.

The Oklahoma Supreme Court has held that the "obvious intention of [Article 23, Section 9] ... was to prevent the abridging of the time within which rights under the law may be enforced." Gray v. Reliable Insurance Company, 110 P. 728, 730 (Okla. 1910); Uptegraft v. Home Insurance Company, 662 P.2d 681, (Okla. 1983); and McDonald v. Amtel, 633 P.2d 743 (Okla. 1981). This constitutional provision prohibits notice requirements which conflict with state statutory law. In other words, parties cannot agree to a statute of

limitation contrary to that which is established by law. Therefore the notice provision is not prohibited by Oklahoma's Constitution. FROM A PLAIN READING OF THIS PROVISION, DYCO HAS NO REMEDY IN DAMAGES RESULTING FROM ANR'S FAILURE TO TAKE RATABLY. This provision provides that Dyco, upon written notice accompanied by evidence, may require ANR to increase its purchase over a period of time to the extent necessary to enable Dyco to sell its gas ratably. In the event ANR, after receipt of notice, cannot increase its takes, then ANR must release sufficient quantities of the reserves to allow Dyco "to fully remedy such situation". This language suggests that Dyco would have the right to sell its reserves to other purchasers. There is no statement that Dyco will be allowed a recovery in damages if drainage occurs.

Accordingly, ANR is entitled to summary judgment on Dyco's Fifth cause of action.

Under the Sixth and Seventh causes of action, Dyco sets forth a tort claim for "intentional damage to property". Dyco cites Woods Petroleum v. Delhi Gas Pipeline, 700 P.2d 1023 (Okla.App. 1983) as authority that it can elect to plead alternative theories of recovery against ANR on its drainage claim, including a tort cause of action.

In Woods, the parties were performing under a gas purchase agreement. Under the contract, Delhi had a duty to provide and operate the metering equipment which measured the volume of gas Delhi was to take. Due to mismeasurement, Delhi was taking more gas than it had purchased. Woods brought suit asserting claims

for conversion, negligence and later adding a claim for breach of contract. Recovery was allowed on the multiple theories. The court concluded that Delhi had breached its contractual duty to accurately measure the gas purchased. In permitting recovery in tort, the court said:

Accompanying this contract is a common law duty to perform the thing agreed to be done with care, skill, reasonable expediency and faithfulness. The negligent failure to perform these duties constitutes a tort as well as a breach of contract.

Id. 700 P.2d at 1027.

In Woods, the duty to measure gas arose out of the contract. The independent duty to measure it accurately is imposed by common law. In the case sub judice, ANR has no contractual duty to prevent drainage, therefore the duty cannot be imposed by common law.

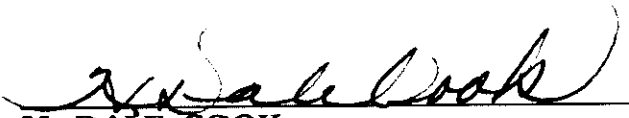
There are limited circumstances in which Oklahoma courts have recognized an implied covenant to protect against drainage. Specifically, Oklahoma courts have recognized an implied covenant in an oil and gas lease for a lessee to protect against drainage. See, e.g., Sunray Mid-Continent Oil Company v. McDaniel, 361 P.2d 683 (Okla. 1961).

In the case before the Court, the parties are in a purchaser-seller arrangement. Oklahoma courts have not implied a duty for purchasers to protect against drainage. Therefore, in order for a duty to exist it must arise out of statutory law or be expressly set forth in the parties' contract. Dyco has offered no evidence to establish such a duty which would give rise to a tort cause of action.

Accordingly, ANR is entitled to summary judgment on Dyco's Sixth and Seventh causes of action.

IT IS THEREFORE ORDERED that the motion of ANR Pipeline Company for summary judgment on Dyco Petroleum's Fifth, Sixth and Seventh causes of action is hereby GRANTED.

IT IS SO ORDERED this 27th day of October, 1989.


H. DALE COOK
Chief Judge, U. S. District Court

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

10-27-89

EDWARD S. SCOTT, III,
Petitioner,

v.

RON CHAMPION, Warden,
Respondent.

Case No. 89-C-562-E

AMENDED ORDER GRANTING RESPONDENT'S MOTION TO DISMISS

NOW on this 26th day of October, 1989, comes Respondent's Motion to Dismiss Petitioner's request for Habeas Corpus Relief for failure to exhaust state remedies. On September 26, 1989, this Court entered a minute order which granted Plaintiff's Motion to Dismiss. The minute order entered on September 26, 1989, shall now be amended to read that Respondent's Motion to Dismiss is granted. The minute order shall remain in effect in all other respects other than as specified herein.

IT IS SO ORDERED.

S/ JAMES O. ELLISON

JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED

OCT 27 1989

U.S. DISTRICT COURT

NOLAN HORTON,

Debtor,

NOLAN HORTON,

Appellant,

vs.

EMILY STRATTON and HELEN
MCINTOSH,

Appellees.

Bankruptcy Case 88-01687-W

Adversary No. 88-0329-W

District Court No. 89-281-B

O R D E R

This matter comes before the Court upon the failure of *pro se* Appellant Nolan Horton, d/b/a Osage Oaks Mobil Home Park to prosecute his appeal from Bankruptcy Case No. 88-01687-W and Adversary No. 88-0329-W, which notice of appeal was lodged herein on April 6, 1989 (Record of Appeal filed 6-1-89). The Court finds, *sua sponte*, the matter should be and the same is herewith dismissed, without prejudice.¹

IT IS SO ORDERED this 26th day of October, 1989.


THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

¹Finley v. Rittenhouse, 416 F.2d 1186 (9th Cir. 1969); Link v. Wabash R. Co., 370 U.S. 626, 82 S.Ct. 1386, 8 L.Ed.2d 734 (1962), *reh'g denied*, 371 U.S. 873, 83 S.Ct. 115, 9 L.Ed.2d 112; Anthony v. Marion County General Hospital, 617 F.2d 1164 (5th Cir. 1980).

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED
JUL 27 1990


U.S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

LEONARD ARABIA, et al.,)
)
Plaintiff,)
)
and)
)
PRENTICE THOMAS, et al.,)
)
Intervenors,)
vs.)
)
GIANT PETROLEUM, INC. et al.,)
)
Defendant.)

No. 89-C-091B

STIPULATION OF DISMISSAL OF DEFENDANT
AMERICAN PETROLEUM TRADING, INC.

COME NOW the Intervening Plaintiffs, and each of them, and the defendant American Petroleum Trading, Inc., and pursuant to Rule 41 (a) (I) (ii) of the Federal rules of Civil Procedure stipulate to the dismissal of defendant American Petroleum Trading, Inc., from the Complaint in Intervention.


STEVEN Q. PETERS, O.B.A #11469
RICHARD L. HARRIS, O.B.A #3909
Sam P. Daniel, III, O.B.A #2151
Short, Harris, Turner, Daniel
& McMahan
Attorneys for Intervenors
1924 South Utica, Suite 700
Tulsa, Oklahoma 74104
(918) 743-6201



WESLEY R. THOMPSON, O.B.A #8993
Attorney for Defendant,
American Petroleum Trading, Inc.
15 South Park
Sapulpa, Oklahoma 74066
(918) 224-7330

CERTIFICATE OF MAILING

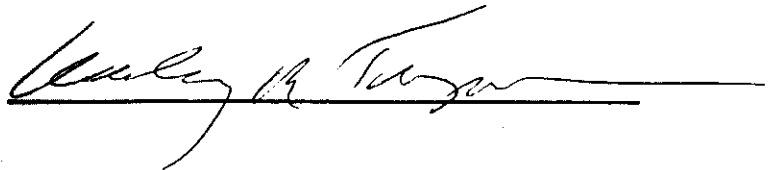
The undersigned hereby certifies that on the 27 day of Oct, 1989, he mailed a true and correct copy of the above and foregoing instrument to:

Allan DeVore
Marjorie Ramana
1318 North Robinson
Oklahoma City, Oklahoma 73103

James A. Williamson
1736 S. Carson
Tulsa, Oklahoma 74119

Conrad J. Carson
P. O. Box 701314
Tulsa, Oklahoma 74170

Mark D. VanLandingham
P. O. Box 25861
Oklahoma City, Oklahoma 73125



IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED

OCT 27 1989

Jack C. Silver, Clerk
U.S. DISTRICT COURT

LEONARD ARABIA, et al.,)

Plaintiff,)

vs.)

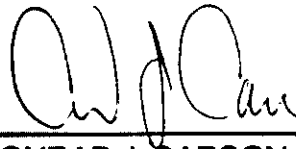
GIANT PETROLEUM, INC. et al.,)

Defendant,)

No. 89-C-091B

STIPULATION OF DISMISSAL OF DEFENDANT
AMERICAN PETROLEUM TRADING, INC.

COME NOW Cimmarron Crude Co., Inc. and the
defendant American Petroleum Trading, Inc., and pursuant to Rule 41
(a) (I) (ii) of the Federal rules of Civil Procedure stipulate to the
dismissal of defendant American Petroleum Trading, Inc., from the
Cross Claim of Cimmarron Crude Co., Inc.



CONRAD J. CARSON
Attorney for
Cimmarron Crude Co., Inc.
P. O. Box 701314
Tulsa, Oklahoma 74170
Phone: 1-918-747-1614



WESLEY R. THOMPSON
Attorney for Defendant
American Petroleum Trading, Inc.
15 South Park
Sapulpa, Oklahoma 74066
Phone: 1-918-224-7330

CERTIFICATE OF MAILING

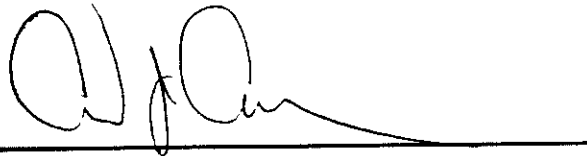
The undersigned hereby certifies that on the 24th day of October, 1989, he mailed a true and correct copy of the above and foregoing instrument to:

Allan DeVore
Marjorie Ramana
1318 North Robinson
Oklahoma City, Oklahoma 73103

James A. Williamson
1736 S. Carson
Tulsa, Oklahoma 74119

Stephen Q. Peters
Richard L. Harris
1924 S. Utica, Suite 700
Tulsa, Oklahoma 74103

Mark D. VanLandingham
P. O. Box 25861
Oklahoma City, Oklahoma 73125



A handwritten signature in dark ink, appearing to read 'M. VanLandingham', is written over a horizontal line.

ejj

OBA # 1248

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

STATE FARM FIRE AND CASUALTY
INSURANCE COMPANY,

Plaintiff,

vs.

DONNA FREETH, BRANDIE NICHOLE
HOLLAND, a Minor, by and
through her Mother and Next
Friend, JANICE HOLLAND,

Defendants.

CASE NO. 89-C-0007 E /

"JUDGMENT"

F I L E D

OCT 26 1989 *ad*

Jack C. Silver, Clerk
U.S. DISTRICT COURT

JUDGMENT ON DECISION BY THE COURT

This Action came on for decision before the Court, the Honorable James O. Ellison, District Judge, presiding, and the issues having been duly heard and a decision having been duly rendered,

It is ORDERED AND ADJUDGED as follows:

1. The Motion for Summary Judgment of State Farm Fire & Casualty Insurance Company should be and is hereby granted as follows:

A. The damages complained of by Defendant Holland are excluded under the Intentional Act and Expected Harm exclusion of the Homeowner's Policy of Defendant Freeth;

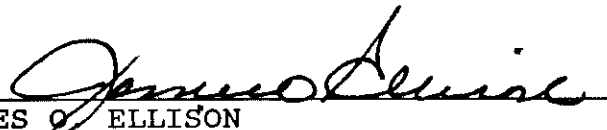
B. The damages complained of by Defendant Holland are excluded under the Business Pursuits Exclusion of the Homeowner's Policy of Defendant Freeth;

C. The damages complained of by Defendant Holland are excluded under the Professional Services Exclusion of the Homeowner's Policy of Defendant Freeth;

d. State Farm has no obligation to indemnify or defend the claims made by Defendant Holland against Defendant Freeth.

2. The Cross Motion for Summary Judgment of the Defendant, Donna Freeth must be and hereby is denied.

ORDERED this 26th day of October, 1989.


JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

AUTOMOTIVE RADIATOR SUPPLY
COMPANY,

VS.

Defendant,

vs.

Third-Party
Defendant.

Case No. 87-C-156-E

F I L E D

OCT 26 1989

Jack C. Silver, Clerk
U.S. DISTRICT COURT

This matter comes on for hearing for the undersigned Judge of the United States District Court for the Northern District of Oklahoma and the issues having been duly heard and presented upon Motion for Partial Summary Judgment and Stipulations of Facts, and a decision having been rendered herein by the Court on October 10, 1989, filed October 12, 1989.

IT IS ORDERED AND ADJUDGED:

1. That the Defendant, Daniel Radiator Corp., have and recover from the Plaintiff, Automotive Radiator Supply Company, the sum of \$17,039.44 together with interest thereon at the rate of 10% per annum from February 11, 1987

to date of Judgment, which interest the Court finds to equal \$4,542.70, through October 10, 1989, for a total Judgment in favor of Daniel Radiator Corp., against Automotive Radiator Supply Company to October 10, 1989, in the amount of \$21,582.14.


2. That the Defendant, (Third-Party Plaintiff) Daniel Radiator Corp., have and recover Judgment against John T. Fields, Third-party Defendant, the sum of \$34,049.97, together with interest thereon at 10% per annum from January 21, 1988 to date of Judgment, which interest the Court finds to equal \$5,774.82, through October 10, 1989, for a total Judgment as of October 10, 1989 in favor of Daniel Radiator Corp., against John T. Fields in the amount of \$39,824.79.

3. That the Third-party Defendant (Counter-claimant), John T. Fields, have and recover Judgment as offset against Daniel Radiator Corp., in the amount of \$6,606.35 together with interest thereon at the rate of 10% per annum from April 8, 1988 to date of Judgment, which interest the Court finds to be equal to \$959.28 to October 10, 1989, for a total offset Judgment in favor of John T. Fields against Daniel Radiator Corp., in the amount of \$7,565.63.

IT IS FURTHER ORDERED AND DECREED that the Order of the Court entered October 10, 1989, be incorporated herein by reference.

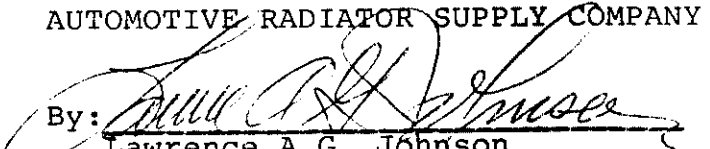
IT IS FURTHER ORDERED that Daniel Radiator Corp., have and recover from Automotive Radiator Supply Company, its costs on its Counter-claim herein and recover its costs on its Third-party Complaint against John T. Fields.

DATED this 26th day of October, 1989.

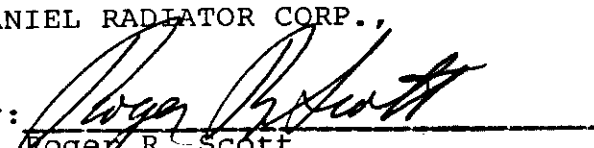

JAMES G. ELLISON
UNITED STATES DISTRICT JUDGE

APPROVED AS TO FORM AND CONTENT:

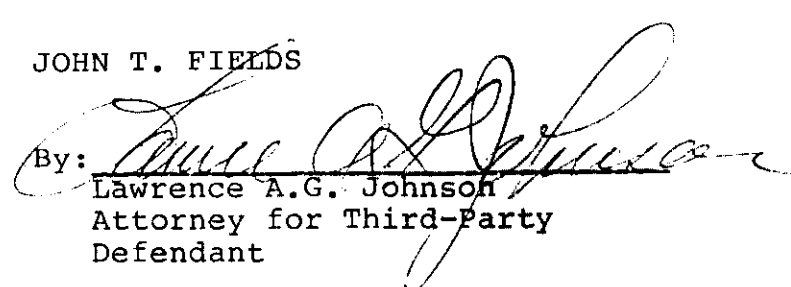
AUTOMOTIVE RADIATOR SUPPLY COMPANY

By: 
Lawrence A.G. Johnson
Attorney for Plaintiff

DANIEL RADIATOR CORP.,

By: 
Roger R. Scott
Attorney for Defendant

JOHN T. FIELDS

By: 
Lawrence A.G. Johnson
Attorney for Third-Party
Defendant

FILED

IN THE UNITED STATES DISTRICT COURT FOR
THE NORTHERN DISTRICT OF OKLAHOMA

OCT 26 1989 *dt*

Jack C. Silver, Clerk
U.S. DISTRICT COURT

DOROTHY BUTLER HAZELRIGG,

Plaintiff,

vs.

No. 88-C1660-E ✓

KENTUCKY FRIED CHICKEN CORP.,
a foreign corporation; and
PEPSICO, INC., d/b/a KENTUCKY
FRIED CHICKEN CORP., a foreign
corporation,

Defendants.

ORDER OF DISMISSAL

NOW on this 26th day of October, 1989,
pursuant to the parties' request for an order dismissing this
action without prejudice, the Court finds that the same should be
granted.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the above-
captioned lawsuit be dismissed without prejudice.


UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

JANET SMITH,

Plaintiff,

vs.

THIRD PARTY ADMINISTRATORS,
INC.,

Defendant.

No. 89-C-239-E ✓

FILED

OCT 26 1989 *dt*

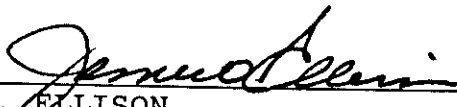
Jack C. Silver, Clerk
U.S. DISTRICT COURT

ADMINISTRATIVE CLOSING ORDER

The Court has been advised by counsel that this action has been settled, or is in the process of being settled. Therefore it is not necessary that the action remain upon the calendar of the Court.

IT IS THEREFORE ORDERED that the Clerk administratively terminate this action in his records, without prejudice to the rights of the parties to reopen the proceedings for good cause shown for the entry of any stipulation, order, judgment, or for any other purpose required to obtain a final determination of the litigation. The Court retains complete jurisdiction to vacate this order and to reopen the action upon cause shown within thirty (30) days that settlement has not been completed and further litigation is necessary.

ORDERED this 26th day of October, 1989.


JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

entered

FILED

OCT 26 1989

JACK D. SILVER, CLERK
U.S. DISTRICT COURT

EQUIVEST FINANCIAL CORPORATION,)

Plaintiff,)

vs.)

FEDERAL HOME LOAN BANK BOARD)
and STATE FEDERAL SAVINGS AND)
LOAN ASSOCIATION,)

Defendants.)

UNDER SEAL

(Seal order vacated)
3-26-90

No. 89-C-409-C

ORDER

This matter came on for hearing on September 22, 1989 on the motion of defendant Federal Home Loan Bank Board (the Board) to dismiss.¹ The Court now enters its Order in regard thereto.

Plaintiff alleges that in 1986 it negotiated with representatives of the Board for the purchase of State Federal Savings and Loan Association (State Federal). The negotiations contemplated that the Board would declare State Federal insolvent and authorize

¹On August 9, 1989, the President signed into law the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (FIRREA). That legislation abolishes the Federal Home Loan Bank Board (Bank Board) 60 days after enactment of FIRREA, permitting it 60 days within which to wind up its affairs and those of the Federal Savings and Loan Insurance Corporation. Sections 401(a)(2) and 401(b). The legislation further provides that no action shall abate by reason of the enactment of FIRREA, and that the Bank Board's successor in interest shall be substituted for the Bank Board as a party to any such proceeding. Section 401(g)(2)(A). In this case the Bank Board's successor is the Office of Thrift Supervision." (quoted from the Board's Reply of October 17, 1989 at 3 n.1). On September 29, 1989, this Court entered its Order substituting the Office of Thrift Supervision as party defendant. The motion was filed by the Board, and the Court will refer to it as the Board's motion.

the conversion of State Federal from a mutual association to a stock association. Simultaneously with the conversion, plaintiff would be issued all the stock in State Federal in exchange for contributing real property with a net value of at least \$27.4 million to the capital of State Federal.

Plaintiff alleges that representatives of the Board advised plaintiff that the Board's written resolutions (i.e., supervisory orders) regarding the transaction would not be provided to plaintiff before the "closing", but would be read to plaintiff over the telephone. On December 24, 1986, an attorney with the Board read to plaintiff the final Board resolutions. Plaintiff found the terms thereof to comport with the transaction negotiations. Plaintiff participated in the "closing" without seeing the written resolutions.

Plaintiff was provided the written resolutions in January, 1987. Plaintiff determined that the Board had unilaterally altered material terms of the negotiations, specifically

- (1) the minimum required capital level that State Federal would be required to maintain;
- (2) the manner of appraising the value of the real properties Equivest contributed to State Federal a part of the transaction; and (3) the effect of State Federal's failure to adhere to the business plan submitted by Equivest.

(Complaint at 8).

Plaintiff now asks for a declaratory judgment that any purported contract between plaintiff and the Board or between plaintiff and State Federal is unenforceable. Further, that "the equities of the parties be adjusted" so that they be placed in their relative positions prior to December 30, 1986.

The Board moves to dismiss the Complaint, asserting that the Court lacks subject matter jurisdiction. The linchpin of the argument is 12 U.S.C. §1730a(k), which provides:

[a]ny party aggrieved by an order of the [Board, as director of the FSLIC] under this section may obtain a review of such order by filing in the court of appeals of the United States for the circuit in which the principal office of such party is located, or in the United States Court of Appeals for the District of Columbia Circuit, within thirty days after the date of service of such order a written petition praying that the order of the [Board] be modified, terminated, or set aside. ... such court shall have jurisdiction, which upon the filing of the record shall be exclusive, to affirm, modify, terminate, or set aside, in whole or in part, the order ...

Two resolutions were adopted by the Board here: Resolution No. 86-1295, which approved State Federal's conversion to a stock association and No. 86-1296, which approved the acquisition by plaintiff of all State Federal Stock. The Board argues that both resolutions are "orders ... under this section" described in §1730a(k), and that therefore this Court lacks jurisdiction.

12 U.S.C. §§1464(i)(4) and 1725(j)(2) both specifically refer to §1730a(k) and state that it provides the exclusive remedy for a party aggrieved by the approval or disapproval of a conversion plan. An examination of Resolution No. 86-1295 indicates that it falls within the above provisions and is unreviewable by this Court. As for Resolution No. 86-1296, it is unlawful pursuant to 12 U.S.C. §1730a(e)(1)(B) to acquire control over an FSLIC-insured institution without prior written authorization by the FSLIC. Kaneb Services v. Fed.Sav. & Loan Ins., 650 F.2d 78, 80 n.2 (5th Cir. 1981). Resolution No. 86-1296 represents such approval, and again is unreviewable.

In Harr v. Fed.Sav. & Loan Assoc., 557 F.2d 751 (10th Cir. 1977), cert. denied, 434 U.S. 1033 (1978), depositors in a mutual association brought suit alleging that a conversion plan was fraudulent and in violation of federal securities laws. The court stated:

As the matter now stands, the approval of the Board must somehow be first set aside before the plaintiffs can proceed as they here argue. The asserted Rule 10b-5 claim is wholly a consequence of the Board's approval of the plan.

It does not make much difference whether this is called an exhaustion of administrative remedies, or whether it is viewed as what in reality is a challenge to the Bank Board's decision although cast in terms of Rule 10b-5. The consequences are the same, and we must affirm the trial court. The subject matter, the nature of plaintiffs' claim, and the arguments before this court demonstrate that the relief sought can only be afforded by a challenge to the Bank Board's action as the basic decision and authorization for the acts and consequences complained of. Anything else would be directed to derivative and secondary matters, and would, for all practical purposes, be a collateral attack on the decision. The statutory provisions are directed to this end and we hold that the remedy created is exclusive under these circumstances.

...

As we have stated above, the sole thrust of plaintiffs' argument is directed to what in reality was the agency decision. This attack cannot be changed in its substance by a Rule 10b-5 gloss in what is really a collateral proceeding directed to derivative matters or consequences. The fact that the complaint is directed to such derivative consequences, of course, indicates that it is a collateral attack.

Id. at 754.

In response, plaintiff asserts that 12 U.S.C. §1730a(k) is limited to a narrow class of cases in which a litigant seeks to modify, terminate or set aside a Board resolution on the ground that said resolution exceeds statutory and regulatory authority. (Plaintiff's Response Brief at 2). This interpretation does not comport with the statutory language, nor is any supporting authority cited. Plaintiff further asserts that, in contrast to the Harr plaintiffs, it does not attack the resolutions per se, but seeks

to establish that no valid acquisition agreement was ever reached between plaintiff and the Board and that plaintiff's property was deprived through misrepresentation.

The question of the existence of an underlying "contract" is indeed a murky one at this point. Plaintiff has alleged that it negotiated terms with various Board "representatives", but does not identify these persons or state that they had authority to bind the Board. However, plaintiff further alleges that a Board attorney read terms over the telephone which plaintiff found acceptable and in conformity with prior negotiations. Then, for whatever reason, plaintiff elected to take part in the "closing" without having any terms in writing and without seeing the Board resolutions. Plaintiff alleges that it was further misled by post-"closing" statements that the resolutions were in error and would be corrected. Nevertheless, as the Court reads the relevant statutes, in this context the adoption of a Board resolution subsumes all prior negotiations as to acquisition and serves as the record from which to be appealed. Plaintiff's distinction that it does not attack the resolutions, but seeks a finding regarding the underlying negotiations is without support in the authorities. It still constitutes a collateral attack on the resolutions themselves, as rejected in Harr.

Plaintiff contends that "on point" is Rembold v. Pac. First Fed. Sav. Bank, 798 F.2d 1307 (9th Cir. 1986), cert. denied, 482 U.S. 905 (1987). (Plaintiff's Opposition Brief at 16). Plain-

tiff's counsel stated at the hearing that Rembold stands for the proposition that the court of appeals has no jurisdiction in an area "out of the administrative expertise of the Bank Board." (Transcript at 48 L.5). Actually, the court's quite specific holding is as follows:

We conclude that the enactment of section 1730a(k) did not divest the district court of subject matter jurisdiction over a stockholder's private cause of action against a savings institution based upon alleged misrepresentations in a stock offering circular issued following FHLBB approval of a conversion plan.

Id. at 1311 (emphasis added).

The Renbold court distinguished the Harr decision by stating that "[t]he Tenth Circuit did not suggest that the National Housing Act precludes a private cause of action against a savings institution based on fraudulent representations in an offering circular." Id. at 1312 (emphasis added). The claim by plaintiff addressed in the present motion is not against the savings institution, but against the Bank Board and implicates orders of the Board. Plaintiff's counsel suggests that North Amer. Sav. Assoc. v. Fed. Home Loan Bank Board, 755 F.2d 122 (8th Cir. 1985) carves out an exception for Board bias as not covered by administrative discretion. (Transcript at 38, LL.7-9). In fact, the court was relying on a specific statute, 12 U.S.C. §1464(d)(1), which permits certain actions by the savings institution against the Board. Id. at 126.

Plaintiff contends that the statutory review procedure is inadequate. This argument has been rejected in other contexts. See Fort Worth National Corp. v. Fed. Savings and Loan Ins. Corp., 469 F.2d 47, 52-53 (5th Cir. 1972). No doubt it is difficult to

develop a factual record directly before an appellate court, but the statutory language and the Harr decision seem clear. The statute provides that the appeals court may modify, terminate or set aside a Board order. This is necessarily part of the relief plaintiff seeks. Assuming arguendo the truth of plaintiff's allegations the Court does not in any manner condone such misrepresentations. However, the fact remains that plaintiff did not file a protective appeal as it could have done. The result is harsh, but is mandated by existing authority.

Also before the Court is the motion of the Board to dismiss the cross-claim of defendant State Federal.

In its Cross-Claim, State Federal seeks to bind the Board to the "agreement" allegedly made before the written resolutions were issued. The Board again relies upon 12 U.S.C. §1730a(k). To convert from a mutual to a stock form of organization requires prior written approval of the Board. 12 C.F.R. §563b.1. To obtain control of State Federal, Equivest must receive prior written Board approval. 12 C.F.R. §574.3.

State Federal seeks to invoke the doctrine of estoppel against the Government. It asserts that it "is not seeking a remedy which would modify the terms of the resolutions. Rather, State Federal is petitioning this Court to estop FHLBB from denying the agreement reached by State Federal, Equivest and FHLB-Topeka." (State Federal's Response at 7). Further, "that the true agreement was that which was reached in mid-December. FHLBB should be estopped

from denying that such an agreement ever existed." Id. at 8. In Lurch v. United States, 719 F.2d 333, 341 (10th Cir. 1983), the court set forth the following requirements:


- (1) the party to be estopped must know the facts; (2) he must intend that his conduct will be acted upon or must so act that the party asserting the estoppel has the right to believe that it as so intended; (3) the latter must be ignorant of the true facts; and (4) he must rely on the former's conduct to his injury.

The Court is not persuaded that the estoppel doctrine is applicable here. Essential to governmental estoppel is reasonable detrimental reliance. First Interstate Bank v. Small Business Admin., 868 F.2d 340, 347 (9th Cir. 1989). In that case the party seeking to invoke estoppel knew that it needed written authorization to deviate from approved disbursements, but relied upon oral approval from an official of the Small Business Administration who lacked authority to change the terms of a loan authorization. The court rejected the estoppel argument. In the case at bar, State Federal has not disputed the requirement of written Board approval. See also Falcone v. Pierce, 864 F.2d 226, 230 (1st Cir. 1988) ("those who deal with the Government are expected to know the law and may not rely on the conduct of Government agents contrary to law") (quoting Heckler v. Community Health Services, 467 U.S. 51, 63 (1984)). The Court believes that these principles are applicable here to prevent estopping the Government.

It is the Order of the Court that the motions of defendant Federal Home Loan Bank Board, now succeeded by the Office of Thrift Supervision, to dismiss are hereby GRANTED.

It is the further Order of the Court that the motion of defendant Federal Home Loan Bank Board for protective order is hereby DENIED as moot.

IT IS SO ORDERED this 26th day of October, 1989.



H. DALE COOK
Chief Judge, U. S. District Court

GLH/ta
10/11/89

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

JOHNNIE JUNIOR ENGLAND, and
KATHRYN JANIE ENGLAND, Plaintiff's Spouse,

Plaintiffs,

vs.

ANCHOR PACKING COMPANY, et al.,

Defendants.

No. 88-C-709-C

STIPULATED JOINT MOTION FOR,
AND ORDER OF, DISMISSAL
WITHOUT PREJUDICE AS TO DEFENDANT
GAF CORPORATION

Fed.R.Civ.P. 41(a)(2)

M O T I O N

Plaintiffs and Defendant GAF Corporation jointly move
this Court for an Order of Dismissal Without Prejudice of the
above-styled action.

O R D E R

Upon the above and foregoing Joint and Stipulated Motion
for Order of Dismissal Without Prejudice, the above-styled action
is hereby dismissed without prejudice as to GAF Corporation, each
party to bear its own costs.


H. DALE COOK
U.S. DISTRICT COURT JUDGE

NOTE: THIS ORDER IS TO BE MAILED
BY ~~DEPT GAF~~ TO ALL COUNSEL AND
PRO SE LITIGANTS IMMEDIATELY
UPON RECEIPT.

APPROVED:

LAW OFFICES OF
JOHN W. NORMAN INCORPORATED
ATTORNEYS FOR PLAINTIFF

By: 

JOHN W. NORMAN - OBA #6699
GINA L. HENDRYX - OBA #10330
Renaissance Centre East
127 N.W. 10th
Oklahoma City, OK 73103-4903
405/272-0200

DAVIS, HOCKENBERG, WINE, BROWN, KOEHN & SHORS
ATTORNEYS FOR DEFENDANT GAF CORPORATION

By: 

CHARLES J. KALINOSKI
2300 Financial Center
555 Walnut Street
Des Moines, IA 50309
515/243-2300 (O)
515/243-0654 (F)

GLH/ta
10/11/89

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

OCT 19 1989

JOHNNIE JUNIOR ENGLAND, and
KATHRYN JANIE ENGLAND, Plaintiff's Spouse,

Plaintiffs,

vs.

ANCHOR PACKING COMPANY, et al.,

Defendants.

Jack C. Silver, Clerk
U.S. DISTRICT COURT

No. 88-C-709-C

STIPULATED JOINT MOTION FOR,
AND ORDER OF, DISMISSAL
WITHOUT PREJUDICE AS TO DEFENDANT
KEENE CORPORATION

Fed.R.Civ.P. 41(a)(2)

OCT 25 1989

Jack C. Silver, Clerk
U.S. DISTRICT COURT

M O T I O N

Plaintiffs and Defendant Keene Corporation jointly move this Court for an Order of Dismissal Without Prejudice of the above-styled action.

O R D E R

Upon the above and foregoing Joint and Stipulated Motion for Order of Dismissal Without Prejudice, the above-styled action is hereby dismissed without prejudice as to Keene Corporation, each party to bear its own costs.

H. DALE COOK


U.S. DISTRICT COURT JUDGE

NOTE: THIS ORDER IS TO BE MAILED


BY DEPT. KEENE TO ALL COUNSEL AND
PRO SE LITIGANTS IMMEDIATELY
UPON RECEIPT.

APPROVED:

LAW OFFICES OF
JOHN W. NORMAN INCORPORATED
ATTORNEYS FOR PLAINTIFFS

By: 
JOHN W. NORMAN - OBA #6699
GINA L. HENDRYX - OBA #10330
Renaissance Centre East
127 N.W. 10th
Oklahoma City, OK 73103-4903
405/272-0200

DAVIS, HOCKENBERG, WINE, BROWN, KOEHN & SHORS
ATTORNEYS FOR DEFENDANT KEENE CORPORATION

By: 
CHARLES J. KALINOSKI
2300 Financial Center
555 Walnut Street
Des Moines, IA 50309
515/243-2300 (O)
515/243-0654 (F)

JWN/ta
10/05/89

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

OCT 18 1989

Jack C. Silver, Clerk
U.S. DISTRICT COURT

JOHNNIE JUNIOR ENGLAND, and)
KATHRYN JANIE ENGLAND, Plaintiff's Spouse,)
Plaintiffs,)
vs.)
ANCHOR PACKING COMPANY, et al.,)
Defendants.)

No. 88-C-709-C

STIPULATED JOINT MOTION FOR,
AND ORDER OF, DISMISSAL
WITHOUT PREJUDICE AS TO DEFENDANT
THE FLINTKOTE COMPANY, INC.

Fed.R.Civ.P. 41(a)(2)

M O T I O N

Plaintiffs and Defendant The Flintkote Company, Inc.,
jointly move this Court for an Order of Dismissal Without Preju-
dice of the above-styled action.

O R D E R

Upon the above and foregoing Joint and Stipulated Motion
for Order of Dismissal Without Prejudice, the above-styled action
is hereby dismissed without prejudice as to The Flintkote Com-
pany, Inc., each party to bear its own costs.


H. DALE COOK
U.S. DISTRICT COURT JUDGE

NOTE: THIS ORDER IS TO BE MAILED BY DEPT FLINTKOTE
BY ~~MOVANT~~ TO ALL COUNSEL AND
PRO SE LITIGANTS IMMEDIATELY
UPON RECEIPT.

APPROVED:

LAW OFFICES OF
JOHN W. NORMAN INCORPORATED
ATTORNEYS FOR PLAINTIFFS

By: *G. Hendryx*
JOHN W. NORMAN - OBA #6699
GINA L. HENDRYX - OBA #10330
Renaissance Centre East
127 N.W. 10th
Oklahoma City, OK 73103-4903
405/272-0200

McKINNEY, STRINGER & WEBSTER
ATTORNEYS FOR DEFENDANT THE FLINTKOTE COMPANY

By: *Dixie L. Coffey*
DIXIE L. COFFEY
ROBERT D. TOMLINSON
101 N. Broadway
Oklahoma City, OK 73102
405/239-6444 (O)
405/239-7902 (F)

JWN/ta
10/05/89

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

OCT 18 1989 *fm*

Jack C. Silver, Clerk
U.S. DISTRICT COURT

HOWARD RICHARD GREEN, and)
HELEN M. GREEN, Plaintiff's Spouse,)
Plaintiffs,)
vs.)
ANCHOR PACKING COMPANY, et al.,)
Defendants.)

No. 88-C-706-C ✓

STIPULATED JOINT MOTION FOR,
AND ORDER OF, DISMISSAL
WITHOUT PREJUDICE AS TO DEFENDANT
THE FLINTKOTE COMPANY, INC.

Fed.R.Civ.P. 41(a)(2)

M O T I O N

Plaintiffs and Defendant The Flintkote Company, Inc.,
jointly move this Court for an Order of Dismissal Without Preju-
dice of the above-styled action.

FILED

OCT 25 1989 *fm*

O R D E R

Jack C. Silver, Clerk
U.S. DISTRICT COURT

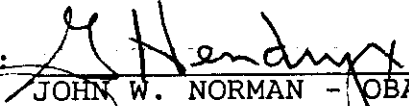
Upon the above and foregoing Joint and Stipulated Motion
for Order of Dismissal Without Prejudice, the above-styled action
is hereby dismissed without prejudice as to The Flintkote Com-
pany, Inc., each party to bear its own costs.

H. Dale Cook
H. DALE COOK
U.S. DISTRICT COURT JUDGE


NOTE: THIS ORDER IS TO BE MAILED BY DEPT FLINTKOTE
BY MOVANT TO ALL COUNSEL AND
PRO SE LITIGANTS IMMEDIATELY
UPON RECEIPT.

APPROVED:

LAW OFFICES OF
JOHN W. NORMAN INCORPORATED
ATTORNEYS FOR PLAINTIFFS

By: 
JOHN W. NORMAN - OBA #6699
GINA L. HENDRYX - OBA #10330
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405/272-0200

McKINNEY, STRINGER & WEBSTER
ATTORNEYS FOR DEFENDANT THE FLINTKOTE COMPANY

By: 
DIXIE L. COFFEY
ROBERT D. TOMLINSON
101 N. Broadway
Oklahoma City, OK 73102
405/239-6444 (O)
405/239-7902 (F)

GLH/ta
10/11/89

FILED

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

OCT 10 1989

Jack C. Silver, Clerk
U.S. DISTRICT COURT

HOWARD RICHARD GREEN, and
HELEN M. GREEN, Plaintiff's Spouse,

Plaintiffs,

vs.

ANCHOR PACKING COMPANY, et al.,

Defendants.

No. 88-C-706-C

STIPULATED JOINT MOTION FOR,
AND ORDER OF, DISMISSAL
WITHOUT PREJUDICE AS TO DEFENDANT
KEENE CORPORATION

Fed.R.Civ.P. 41(a)(2)

M O T I O N

Plaintiffs and Defendant Keene Corporation jointly move
this Court for an Order of Dismissal Without Prejudice of the
above-styled action.

O R D E R

Upon the above and foregoing Joint and Stipulated Motion
for Order of Dismissal Without Prejudice, the above-styled action
is hereby dismissed without prejudice as to Keene Corporation,
each party to bear its own costs.


H. DALE COOK
U.S. DISTRICT COURT JUDGE

NOTE: THIS ORDER IS TO BE MAILED
BY ~~DEPT. CLERK~~ TO ALL COUNSEL AND
PRO SE LITIGANTS IMMEDIATELY
UPON RECEIPT.

APPROVED:

LAW OFFICES OF
JOHN W. NORMAN INCORPORATED
ATTORNEYS FOR PLAINTIFFS

By: 

JOHN W. NORMAN OBA #6699
GINA L. HENDRYX OBA #10330
Renaissance Centre East
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405/272-0200

DAVIS, HOCKENBERG, WINE, BROWN, KOEHN & SHORS
ATTORNEYS FOR DEFENDANT KEENE CORPORATION

By: 

CHARLES G. KALINOSKI
2300 Financial Center
555 Walnut Street
Des Moines, IA 50309
515/243-2300 (O)
515/243-0654 (F)

GLH/ta
10/11/89

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

HOWARD RICHARD GREEN, and
HELEN M. GREEN, Plaintiff's Spouse,

Plaintiffs,

vs.

ANCHOR PACKING COMPANY, et al.,

Defendants.

No. 88-C-706-C

STIPULATED JOINT MOTION FOR,
AND ORDER OF, DISMISSAL
WITHOUT PREJUDICE AS TO DEFENDANT
GAF CORPORATION

Fed.R.Civ.P. 41(a)(2)

M O T I O N

Plaintiffs and Defendant GAF Corporation jointly move
this Court for an Order of Dismissal Without Prejudice of the
above-styled action.

O R D E R

Upon the above and foregoing Joint and Stipulated Motion
for Order of Dismissal Without Prejudice, the above-styled action
is hereby dismissed without prejudice as to GAF Corporation, each
party to bear its own costs.


H. DALE COOK
U.S. DISTRICT COURT JUDGE

NOTE: THIS ORDER IS TO BE MAILED
BY ~~DEPT 6AF~~ TO ALL COUNSEL AND
PRO SE LITIGANTS IMMEDIATELY.
UPON RECEIPT.

145

APPROVED:

LAW OFFICES OF
JOHN W. NORMAN INCORPORATED
ATTORNEYS FOR PLAINTIFF

By: 

JOHN W. NORMAN - OBA #6699
GINA L. HENDRYX - OBA #10330
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Oklahoma City, OK 73103-4903
405/272-0200

DAVIS, HOCKENBERG, WINE, BROWN, KOEHN & SHORS
ATTORNEYS FOR DEFENDANT GAF CORPORATION

By: 

CHARLES J. KALINOSKI
2300 Financial Center
555 Walnut Street
Des Moines, IA 50309
515/243-2300 (O)
515/243-0654 (F)

GLH/ta
10/11/89

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

JOHN FREDRICK TYREE, and V. MAXINE TYREE,
Plaintiff's Spouse,

Plaintiffs,

vs.

ANCHOR PACKING COMPANY, et al.,

Defendants.

No. 88-C-699-E

STIPULATED JOINT MOTION FOR,
AND ORDER OF, DISMISSAL
WITHOUT PREJUDICE AS TO DEFENDANT
KEENE CORPORATION

Fed.R.Civ.P. 41(a)(2)

M O T I O N

Plaintiffs and Defendant Keene Corporation jointly move
this Court for an Order of Dismissal Without Prejudice of the
above-styled action.

FILED

OCT 25 1989

O R D E R

Jack C. Silver, Clerk
U.S. DISTRICT COURT

Upon the above and foregoing Joint and Stipulated Motion
for Order of Dismissal Without Prejudice, the above-styled action
is hereby dismissed without prejudice as to Keene Corporation,
each party to bear its own costs.

James O. Ellison

JAMES O. ELLISON
U.S. DISTRICT COURT JUDGE

APPROVED:

LAW OFFICES OF
JOHN W. NORMAN INCORPORATED
ATTORNEYS FOR PLAINTIFFS

By: 

JOHN W. NORMAN - OBA #6699
GINA L. HENDRYX - OBA #10330
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127 N.W. 10th
Oklahoma City, OK 73103-4903
405/272-0200

DAVIS, HOCKENBERG, WINE, BROWN, KOEHN & SHORS
ATTORNEYS FOR DEFENDANT KEENE CORPORATION

By: 

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2300 Financial Center
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Des Moines, IA 50309
515/243-2300 (O)
515/243-0654 (F)

GLH/ta
10/11/89

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

JOHN FREDRICK TYREE, and V. MAXINE TYREE,
Plaintiff's Spouse,

Plaintiffs,

vs.

ANCHOR PACKING COMPANY, et al.,

Defendants.

No. 88-C-699-E

STIPULATED JOINT MOTION FOR,
AND ORDER OF, DISMISSAL
WITHOUT PREJUDICE AS TO DEFENDANT
GAF CORPORATION

Fed.R.Civ.P. 41(a)(2)

M O T I O N

Plaintiffs and Defendant GAF Corporation jointly move
this Court for an Order of Dismissal Without Prejudice of the
above-styled action.

FILED

OCT 25 1989

O R D E R

Jack C. Silver, Clerk
U.S. DISTRICT COURT

Upon the above and foregoing Joint and Stipulated Motion
for Order of Dismissal Without Prejudice, the above-styled action
is hereby dismissed without prejudice as to GAF Corporation, each
party to bear its own costs.

S/ JAMES O. ELLISON

JAMES O. ELLISON
U.S. DISTRICT COURT JUDGE

RECEIVED 11 1989

FILE COPY

APPROVED:

LAW OFFICES OF
JOHN W. NORMAN INCORPORATED
ATTORNEYS FOR PLAINTIFF

By: 

JOHN W. NORMAN - OBA #6699
GINA L. HENDRYX - OBA #10330
Renaissance Centre East
127 N.W. 10th
Oklahoma City, OK 73103-4903
405/272-0200

DAVIS, HOCKENBERG, WINE, BROWN, KOEHN & SHORS
ATTORNEYS FOR DEFENDANT GAF CORPORATION

By: 

CHARLES J. KALINOSKI
2300 Financial Center
555 Walnut Street
Des Moines, IA 50309
515/243-2300 (O)
515/243-0654 (F)

GLH/ta
10/11/89

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FLORA L. POWELL, individually, and as)
surviving wife of HUBERT C. POWELL, deceased,)
)
Plaintiff,)

vs.)

ANCHOR PACKING COMPANY, a corporation; et al.,)
)
Defendants.)

No. 88-C-555-E

STIPULATED JOINT MOTION FOR,
AND ORDER OF, DISMISSAL
WITHOUT PREJUDICE AS TO DEFENDANT
KEENE CORPORATION

Fed.R.Civ.P. 41(a)(2)

M O T I O N

Plaintiff and Defendant Keene Corporation jointly move
this Court for an Order of Dismissal Without Prejudice of the
above-styled action.

OCT 25 1989

O R D E R

Jack C. Silver, Clerk
U.S. DISTRICT COURT

Upon the above and foregoing Joint and Stipulated Motion
for Order of Dismissal Without Prejudice, the above-styled action
is hereby dismissed without prejudice as to Keene Corporation,
each party to bear its own costs.

S/ JAMES O. ELLISON

JAMES O. ELLISON
U.S. DISTRICT COURT JUDGE

APPROVED:

LAW OFFICES OF
JOHN W. NORMAN INCORPORATED
ATTORNEYS FOR PLAINTIFF

By: 

JOHN W. NORMAN - OBA #6699
GINA L. HENDRYX - OBA #10330
Renaissance Centre East
127 N.W. 10th
Oklahoma City, OK 73103-4903
405/272-0200

DAVIS, HOCKENBERG, WINE, BROWN, KOEHN & SHORS
ATTORNEYS FOR DEFENDANT KEENE CORPORATION

By: 

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515/243-2300 (O)
515/243-0654 (F)

GLH/ta
10/11/89

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FLORA L. POWELL, individually, and as
surviving wife of HUBERT C. POWELL, deceased,

Plaintiff,

vs.

ANCHOR PACKING COMPANY, a corporation; et al.,

Defendants.

No. 88-C-555-E

STIPULATED JOINT MOTION FOR,
AND ORDER OF, DISMISSAL
WITHOUT PREJUDICE AS TO DEFENDANT
GAF CORPORATION

Fed.R.Civ.P. 41(a)(2)

M O T I O N

Plaintiff and Defendant GAF Corporation jointly move
this Court for an Order of Dismissal Without Prejudice of the
above-styled action.

FILED

OCT 25 1989

O R D E R

Jack C. Silver, Clerk
U.S. DISTRICT COURT

Upon the above and foregoing Joint and Stipulated Motion
for Order of Dismissal Without Prejudice, the above-styled action
is hereby dismissed without prejudice as to GAF Corporation, each
party to bear its own costs.

JAMES O. ELLISON

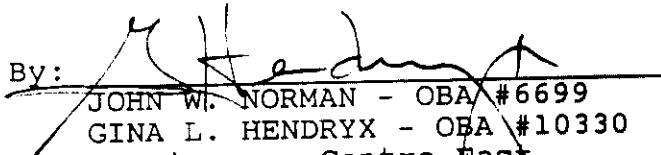
JAMES O. ELLISON
U.S. DISTRICT COURT JUDGE

RECEIVED 10-25-1989

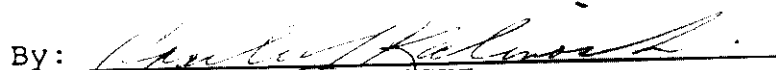
FILE COPY

APPROVED:

LAW OFFICES OF
JOHN W. NORMAN INCORPORATED
ATTORNEYS FOR PLAINTIFF

By: 
JOHN W. NORMAN - OBA #6699
GINA L. HENDRYX - OBA #10330
Renaissance Centre East
127 N.W. 10th
Oklahoma City, OK 73103-4903
405/272-0200

DAVIS, HOCKENBERG, WINE, BROWN, KOEHN & SHORS
ATTORNEYS FOR DEFENDANT GAF CORPORATION

By: 
CHARLES J. KALINOSKI
2300 Financial Center
555 Walnut Street
Des Moines, IA 50309
515/243-2300 (O)
515/243-0654 (F)

GLH/ta
10/11/89

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

EVERETT ORVILLE HEMANN, and
MARIAN M. HEMANN, Plaintiff's Spouse,
Plaintiffs,

vs.

ANCHOR PACKING COMPANY, et al.,
Defendants.

No. 88-C-701-E

STIPULATED JOINT MOTION FOR,
AND ORDER OF, DISMISSAL
WITHOUT PREJUDICE AS TO DEFENDANT
KEENE CORPORATION

Fed.R.Civ.P. 41(a)(2)

M O T I O N

Plaintiffs and Defendant Keene Corporation jointly move
this Court for an Order of Dismissal Without Prejudice of the
above-styled action.

O R D E R

Upon the above and foregoing Joint and Stipulated Motion
for Order of Dismissal Without Prejudice, the above-styled action
is hereby dismissed without prejudice as to Keene Corporation,
each party to bear its own costs.

JAMES O. ELLISON

JAMES O. ELLISON
U.S. DISTRICT COURT JUDGE

APPROVED:

LAW OFFICES OF
JOHN W. NORMAN INCORPORATED
ATTORNEYS FOR PLAINTIFFS

By: 

JOHN W. NORMAN - OBA #6699
GINA L. HENDRYX - OBA #10330
Renaissance Centre East
127 N.W. 10th
Oklahoma City, OK 73103-4903
405/272-0200

DAVIS, HOCKENBERG, WINE, BROWN, KOEHN & SHORS
ATTORNEYS FOR DEFENDANT KEENE CORPORATION

By: 

CHARLES J. KALINOSKI
2300 Financial Center
555 Walnut Street
Des Moines, IA 50309
515/243-2300 (O)
515/243-0654 (F)

GLH/ta
10/11/89

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

EVERETT ORVILLE HEMANN, and
MARIAN M. HEMANN, Plaintiff's Spouse,

Plaintiffs,

vs.

ANCHOR PACKING COMPANY, et al.,

Defendants.

No. 88-C-701-E

STIPULATED JOINT MOTION FOR,
AND ORDER OF, DISMISSAL
WITHOUT PREJUDICE AS TO DEFENDANT
GAF CORPORATION

Fed.R.Civ.P. 41(a)(2)

M O T I O N

Plaintiffs and Defendant GAF Corporation jointly move
this Court for an Order of Dismissal Without Prejudice of the
above-styled action.

O R D E R

Upon the above and foregoing Joint and Stipulated Motion
for Order of Dismissal Without Prejudice, the above-styled action
is hereby dismissed without prejudice as to GAF Corporation, each
party to bear its own costs.

JAMES O. ELLISON

JAMES O. ELLISON
U.S. DISTRICT COURT JUDGE

FILE COPY

RECEIVED 11/15/89

APPROVED:

LAW OFFICES OF
JOHN W. NORMAN INCORPORATED
ATTORNEYS FOR PLAINTIFF

By: 

JOHN W. NORMAN - OBA #6699
GINA L. HENDRYX - OBA #10330
Renaissance Centre East
127 N.W. 10th
Oklahoma City, OK 73103-4903
405/272-0200

DAVIS, HOCKENBERG, WINE, BROWN, KOEHN & SHORS
ATTORNEYS FOR DEFENDANT GAF CORPORATION

By: 

CHARLES J. KALINOSKI
2300 Financial Center
555 Walnut Street
Des Moines, IA 50309
515/243-2300 (O)
515/243-0654 (F)

GLH/ta
10/11/89

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

BOBBY LEE BAUER, Plaintiff and)
HELEN L. BAUER, Plaintiff's spouse,)
and FRED FAULKNER, Plaintiff and)
MARGARET N. FAULKNER, Plaintiff's spouse,)
and IRA ROY DENMAN, Plaintiff, and)
DONNA MAXINE DENMAN, Plaintiff's spouse,)

No. 87-C-66-E

Plaintiffs,)

vs.)

ANCHOR PACKING COMPANY, et al.,)

Defendants.)

STIPULATED JOINT MOTION FOR,
AND ORDER OF, DISMISSAL
WITHOUT PREJUDICE AS TO DEFENDANT
KEENE CORPORATION

Fed.R.Civ.P. 41(a)(2)

M O T I O N

Plaintiffs and Defendant Keene Corporation jointly move
this Court for an Order of Dismissal Without Prejudice of the
above-styled action.

OCT 25 1989

O R D E R

Jack C. Silver, Clerk
U.S. DISTRICT COURT

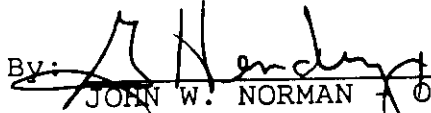
Upon the above and foregoing Joint and Stipulated Motion
for Order of Dismissal Without Prejudice, the above-styled action
is hereby dismissed without prejudice as to Keene Corporation,
each party to bear its own costs.

S/ JAMES O. ELLISON

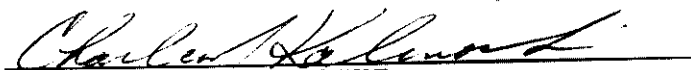
JAMES O. ELLISON
U.S. DISTRICT COURT JUDGE

APPROVED:

LAW OFFICES OF
JOHN W. NORMAN INCORPORATED
ATTORNEYS FOR PLAINTIFFS

By: 
JOHN W. NORMAN - OBA #6699
GINA L. HENDRYX - OBA #10330
Renaissance Centre East
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Oklahoma City, OK 73103-4903
405/272-0200

DAVIS, HOCKENBERG, WINE, BROWN, KOEHN & SHORS
ATTORNEYS FOR DEFENDANT KEENE CORPORATION

By: 
CHARLES J. KALINOSKI
2300 Financial Center
555 Walnut Street
Des Moines, IA 50309
515/243-2300 (O)
515/243-0654 (F)

GLH/ta
10/11/89

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

BOBBY LEE BAUER, Plaintiff and)
HELEN L. BAUER, Plaintiff's spouse,)
and FRED FAULKNER, Plaintiff and)
MARGARET N. FAULKNER, Plaintiff's spouse,)
and IRA ROY DENMAN, Plaintiff, and)
DONNA MAXINE DENMAN, Plaintiff's spouse,) No. 87-C-66-E
Plaintiffs,)
vs.)
ANCHOR PACKING COMPANY, et al.,)
Defendants.)

STIPULATED JOINT MOTION FOR,
AND ORDER OF, DISMISSAL
WITHOUT PREJUDICE AS TO DEFENDANT
GAF CORPORATION

Fed.R.Civ.P. 41(a)(2)

M O T I O N

Plaintiffs and Defendant GAF Corporation jointly move
this Court for an Order of Dismissal Without Prejudice of the
above-styled action.

E I L R D
OCT 25 1989
Jack C. Silver, Clerk
U.S. DISTRICT COURT

O R D E R

Upon the above and foregoing Joint and Stipulated Motion
for Order of Dismissal Without Prejudice, the above-styled action
is hereby dismissed without prejudice as to GAF Corporation, each
party to bear its own costs.

JAMES O. ELLISON
U.S. DISTRICT COURT JUDGE

RECEIVED 10/16/89
FILE COPY

APPROVED:

LAW OFFICES OF
JOHN W. NORMAN INCORPORATED
ATTORNEYS FOR PLAINTIFF

By: 

JOHN W. NORMAN - OBA #6699
GINA L. HENDRYX - OBA #10330
Renaissance Centre East
127 N.W. 10th
Oklahoma City, OK 73103-4903
405/272-0200

DAVIS, HOCKENBERG, WINE, BROWN, KOEHN & SHORS
ATTORNEYS FOR DEFENDANT GAF CORPORATION

By: 

CHARLES J. KALINOSKI
2300 Financial Center
555 Walnut Street
Des Moines, IA 50309
515/243-2300 (O)
515/243-0654 (F)

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

DOROTHY M. HAYNES,

Plaintiff,

vs.

DENVER JAMES JOHNSON and
STATE FARM MUTUAL AUTOMOBILE
INSURANCE COMPANY, a foreign
corporation,

Defendants.

Case No. 89-C-545 E

FILED

OCT 25 1989

Jack C. Silver, Clerk
U.S. DISTRICT COURT

ORDER OF REMAND

THIS MATTER comes on for argument before me, the undersigned Judge of the United States District Court for the Northern District of Oklahoma, on the 12th day of October, 1989, pursuant to the Plaintiff's Motion to Remand the cause to the District Court in and for Tulsa County, State of Oklahoma, and Request for Sanctions, all filed pursuant to the Petition for Removal by the Defendant, STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY.

The Court, having reviewed the Briefs of the Plaintiff and the Defendant, having heard argument of counsel, and being fully advised in the premises, the Court finds that this cause should be remanded to the District Court in and for Tulsa County, State of Oklahoma, as there is not a separate and independent claim or cause of action which would allow removal pursuant to the terms and conditions of 28 U.S.C. § 1441(e).

The Court further finds that the Plaintiff's Request for Economic Sanctions should be overruled.

IT IS, THEREFORE, ORDERED, ADJUDGED, AND DECREED that the Motion to Remand filed by the Plaintiff is sustained and that the matter is remanded to the District Court in and for Tulsa County, State of Oklahoma.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Plaintiff's Request for Sanctions is overruled.

S/ JAMES O. ELLISON

JAMES O. ELLISON
District Judge

APPROVED AS TO FORM:

Tom C. Lane
Attorney for Plaintiff

John A. Scully
Attorney for Defendant,
STATE FARM INSURANCE COMPANY

Kenneth L. Ware
Attorney for Defendant,
DENVER JAMES JOHNSON

JAG:lh
10-16-89
5159.89

RCH/cr
10/18/89

OBA #4343

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

F I L E D

OCT 25 1989

HAROLD CONARD,

Plaintiff,

vs.

OUTBOARD MARINE CORPORATION,
a foreign corporation,

Defendant.

NO. 88-C-1584E

Jack C. Silver, Clerk
U.S. DISTRICT COURT

ORDER OF DISMISSAL WITHOUT PREJUDICE

The parties herein having stipulated to the dismissal of the above styled and numbered cause without prejudice to refiling same, the Court finds that the same should be so dismissed.

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED that the above styled and numbered cause is dismissed without prejudice.

~~W. JAMES O. HARRIS~~

UNITED STATES DISTRICT JUDGE

FILED

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

OCT 25 1989

Jack C. Silver, Clerk
U.S. DISTRICT COURT

KIM MATTHEWS,
Plaintiff,

vs.

CROWN BUICK, INC.,
an Oklahoma Corporation,

Defendant and
Third-Party Plaintiff,

vs.

BARBARA L. O'BANION,

Third-Party Defendant.

Case No. 89-C-217-E

ORDER OF DISMISSAL

NOW on this 25 day of October, 1989, the Court has for its consideration the Stipulation For Dismissal With Prejudice jointly filed in the above styled and numbered cause by plaintiff, defendant and third-party defendant. Based upon the representations and requests of the parties as set forth in the foregoing stipulation, it is

ORDERED that plaintiff's complaint and claims for relief against defendant be and the same are hereby dismissed with prejudice.


IT IS FURTHER ORDERED that defendant's third-party complaint and claims for relief against third-party defendant be and the same is hereby dismissed with prejudice.

IT IS FURTHER ORDERED that each party shall bear its own costs and attorneys' fees.

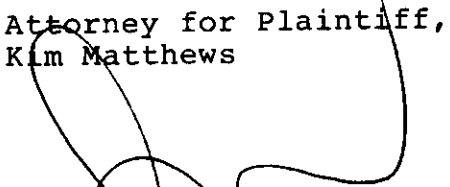
JAMES O. ELLISON

HONORABLE JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE


APPROVED:


Thomas M. Bingham, OBA #0796
LANG, JAMES & BINGHAM, INC.
5 West 22nd Street
Tulsa, Oklahoma 74114
(918) 585-5761

Attorney for Plaintiff,
Kim Matthews


Joel L. Wohlgemuth, OBA #9811
Thomas M. Ladner, OBA #5161
NORMAN & WOHLGEMUTH
2900 Mid-Continent Tower
Tulsa, Oklahoma 74103
(918) 583-7571

Attorneys for Defendant and
Third-Party Plaintiff,
Crown Buick, Inc.


Gordon S. Harman, OBA #3867
2021 South Lewis Avenue, #640
Tulsa, Oklahoma 74104
(918) 583-9586

Attorney for Third-Party Defendant,
Barbara L. O'Banion

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

entered

F I L E D

OCT 25 1989

FEDERAL DEPOSIT INSURANCE
CORPORATION, in its
corporate capacity,

Plaintiff,

vs.

PATRICK R. BEASON and
REBECCA S. BEASON,
husband and wife,

Defendants.

No. 89-C-142-E

Jack C. Silver, Clerk
U.S. DISTRICT COURT

O R D E R

NOW on this 25th day of October, 1989 comes on for consideration the above-styled case and the Court, being fully advised in the premises finds:

Before the Court for consideration is the application of Plaintiff Federal Deposit Insurance Corporation for award of attorney's fees. No response to Plaintiff's application has been filed pursuant to Local Rule 15a. The Court finds that Plaintiff's affidavit in support of the application for award of attorney's fees is sufficient to satisfy the standards set forth in Ramos v. Lamm, 713 F.2d 546 (10th Cir. 1983), and that a hearing on the award of attorney's fees is not necessary. The Court finds that Plaintiff's application for award of attorney's fees should be and the same is hereby granted in part and denied in part.

Under Ramos, the Court must determine whether the actual hours were reasonably expended in the litigation (Id. at 553) and examine

hours allotted to specific tasks (Id. at 554). Reasonableness factors include, inter alia, complexity of the case, number of strategies pursued, responses required by opposing side, potential duplication of services, and performance of counsel. (Id. at 554 & 557).


Plaintiff's counsel has a long history of expertise in this area of law. The matter before the Court is of a type considered "routine" inasmuch as it involved a default under a note and mortgage, service of summons by certified mail and the entry of an unopposed default judgment. After due consideration of the Ramos guidelines and the Court file herein, the following billable entries are denied:

1. (Exhibit A - Beasley) - 3-17-89 - .50 hours for review/analysis of summons, return of service. Service of summons in this suit was by certified mail - return receipt requested. A review and analysis of a PS Form 3811 - Domestic Return Receipt does not require thirty minutes. This entry is therefore reduced to .10 hours.
2. (Exhibit C - Zieren) - 6-7-89 - .25 hours for conference with Cole regarding federal court procedure for defaults, motions, briefs, and appendices. This entry is a duplication of services billed by Cole.
3. (Exhibit D - Cole) - 6-6-89 - 1.75 hours - Research local rules and federal rules regarding hearing on motion for default judgment and 7-12-89 - .75 hours - review local rules regarding attorney fee applications.

Activities designed to familiarize the attorney with a particular area of the law are absorbed in general overhead and not billed to a client (See, Ramos at 554). Ms. Cole is held out as having federal court procedure experience (See page 6 - Brief in Support of Application of Plaintiff Federal Deposit Insurance Corporation for Attorney's Fee). Since Ms. Cole had federal court procedure experience, time spent becoming familiar with federal rules would be redundant or, at least, part of her firm's general overhead. The 6-6-89 and 7-12-89 entries are therefore reduced to .75 hours and .50 hours respectively.

IT IS THEREFORE ORDERED that Plaintiff Federal Deposit Insurance Corporation be awarded attorney's fees in the amount of \$1,522.50.

ORDERED this 25th day of October, 1989.



JAMES G. ELLISON
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED
OCT 23 1989

UNITED STATES OF AMERICA,

Plaintiff,

-vs-

ARRON E. VEACH,
CSS 445 54 1949

Defendant,

CIVIL NUMBER 89-C-500 E

DEFAULT JUDGMENT

A Default having been entered against the Defendant and counsel for the Plaintiff having requested Judgment against the defaulted Defendant and having filed a proper Affidavit, all in accordance with Rule 55(a) and (b)(1) of the Federal Rules of Civil Procedure and Rule 7 of the Rules of the District Court for the NORTHERN DISTRICT OF OKLAHOMA, now, therefore;

JUDGMENT is rendered in favor of the Plaintiff, United States of America, and against the Defendant, ARRON E. VEACH, in the principal sum of \$1052.11, plus pre-judgment interest and administrative costs, if any, as provided by Section 3115 of Title 38, United States Code, together with service of process costs of \$38.48. Future costs and interest at the legal rate of 7.90%, will accrue from the entry date of this judgment and continue until this judgment is fully satisfied.

DATED this 23rd day of October, 1989.

U.S. DISTRICT COURT CLERK
NORTHERN DISTRICT OF OKLAHOMA
Jack C. Silver, Clerk

By:

H. Campbell
Deputy Clerk

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED

OCT 23 1989

ROBERT PAVELCHAK,
Plaintiff,

v.

PDS CARPET CLEANING, INC. and
PAUL SLOAN, an individual,
Defendants.

Jack C. Silver, Clerk
U.S. DISTRICT COURT

Case No. 89-C-026-E

ORDER OF DISMISSAL

The Plaintiff, Robert Pavelchak, and the Defendants, PDS Carpet Cleaning, Inc. and Paul Sloan pursuant to Rule 41 of the Federal Rules of Civil Procedure, stipulated to the dismissal of the Complaint, as amended, of Plaintiff Robert Pavelchak against the Defendants PDS Carpet Cleaning, Inc. and Paul Sloan, it is

ORDERED AND ADJUDGED that the Complaint, as amended of the Plaintiff, Robert Pavelchak, be and the same hereby is dismissed with prejudice. It is further

ORDERED AND ADJUDGED that each party shall bear its own costs in this action.

DONE AND ORDERED this 20 day of Oct, 1989.

S/ JAMES O. ELLISON

UNITED STATES DISTRICT JUDGE

APPROVED AS TO FORM AND CONTENT:

R. Brent Blackstock

R. Brent Blackstock, OBA #839
5310 E. 31st Street
Tulsa, OK 74135
(918) 622-3661

Attorney for Plaintiff

Lewis A. Berkowitz

Lewis A. Berkowitz, OBA #733
3105 E. Skelly Drive
Suite 403
Tulsa, OK 74105

Attorney for Defendants

202:Pavset

FILED

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

OCT 23 1989

Jack C. Silver, Clerk
U.S. DISTRICT COURT

THRIFTY RENT-A-CAR SYSTEM, INC.,)
a corporation,)

Plaintiff,)

vs.)

Case No. 89-C-214 C ✓

MICHAEL H. BENNETT and)
ALCHRIS, INC., a corporation,)

Defendants.)

STIPULATION OF DISMISSAL WITHOUT PREJUDICE

The plaintiff, Thrifty Rent-A-Car System, Inc., by and through its counsel of record, and the defendants, Michael H. Bennett and Alchris, Inc., by and through their counsel of record, stipulate to the dismissal without prejudice of all claims brought in this case by plaintiff. The parties further stipulate that they shall each bear their own attorney's fees and costs.

Dated this 20th day of October, 1989.

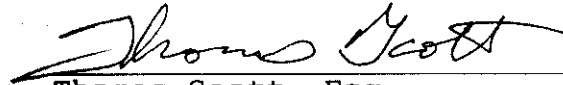
Respectfully submitted,



Dana L. Rasure, OBA #07421
Randee F. Charney, OBA #13255
BAKER, HOSTER, McSPADDEN,
CLARK, RASURE & SLICKER
800 Kennedy Building
Tulsa, Oklahoma 74103
(918) 592-5555

John M. Hickey, OBA #11100
THRIFTY RENT-A-CAR SYSTEM, INC.
4608 South Garnett Road
Tulsa, Oklahoma 74153-0250
(918) 665-9319

Attorneys for Plaintiff
Thrifty Rent-A-Car System, Inc.



Thomas Scott, Esq.
1619 South Boston
Tulsa, OK 74119

Robert Tally, Esq.
248 South Main Street
P. O. Box 10700
Winston-Salem, NC 27108

Attorneys for Defendants
Michael H. Bennett and
Alchris, Inc.

JWN/ta
10/05/89

FILED

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

OCT 13 1989. *dst*

EVERETT ORVILLE HEMANN, and
MARIAN M. HEMANN, Plaintiff's Spouse,

Plaintiffs,

vs.

ANCHOR PACKING COMPANY, et al.,

Defendants.

Jack C. Silver, Clerk
U.S. DISTRICT COURT

No. 88-C-701-E ✓

STIPULATED JOINT MOTION FOR,
AND ORDER OF, DISMISSAL
WITHOUT PREJUDICE AS TO DEFENDANT
GEORGIA TALC COMPANY

Fed.R.Civ.P. 41(a)(2)

M O T I O N

Plaintiffs and Defendant Georgia Talc Company jointly
move this Court for an Order of Dismissal Without Prejudice of
the above-styled action.

FILED

OCT 23 1989 *8*

O R D E R

Jack C. Silver, Clerk
U.S. DISTRICT COURT

Upon the above and foregoing Joint and Stipulated Motion
for Order of Dismissal Without Prejudice, the above-styled action
is hereby dismissed without prejudice as to Georgia Talc Company,
each party to bear its own costs.

James O. Ellison
JAMES O. ELLISON
U.S. DISTRICT COURT JUDGE

NOTES: ALL DOCUMENTS RETURNED
TO THE CLERK'S OFFICE AND
ALL DEBITANTS IMMEDIATELY
UPON RECEIPT.

APPROVED:

LAW OFFICES OF
JOHN W. NORMAN INCORPORATED
ATTORNEYS FOR PLAINTIFFS

By: 

JOHN W. NORMAN - OBA #6699
GINA L. HENDRYX - OBA #10330
Renaissance Centre East
127 N.W. 10th
Oklahoma City, OK 73103-4903
405/272-0200

FOLIART, HUFF, OTTAWAY & CALDWELL
ATTORNEYS FOR DEFENDANT GEORGIA TALC COMPANY

By: 

DAVID ROSS
First National Center, 20th Floor
Oklahoma City, OK 73102
405/232-4633

GLH/ta
10/11/89

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

OCT 16 1989

CLERK
U.S. DISTRICT COURT

FLORA L. POWELL, individually, and as
surviving wife of HUBERT C. POWELL, deceased,

Plaintiff,

vs.

ANCHOR PACKING COMPANY, a corporation; et al.,

Defendants.

No. 88-C-555-E ✓

STIPULATED JOINT MOTION FOR,
AND ORDER OF, DISMISSAL
WITHOUT PREJUDICE AS TO DEFENDANT
SOUTHERN TALC COMPANY

FILED

Fed.R.Civ.P. 41(a)(2)

OCT 23 1989

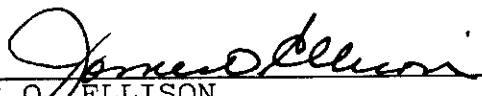
M O T I O N

Jack C. Silver, Clerk
U.S. DISTRICT COURT

Plaintiff and Defendant Southern Talc Company jointly
move this Court for an Order of Dismissal Without Prejudice of
the above-styled action.

O R D E R

Upon the above and foregoing Joint and Stipulated Motion
for Order of Dismissal Without Prejudice, the above-styled action
is hereby dismissed without prejudice as to Southern Talc Com-
pany, each party to bear its own costs.

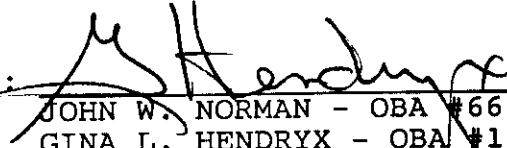

JAMES O. ELLISON
U.S. DISTRICT COURT JUDGE

NOTED
BY CLERK
FOR THE CLERK OF THE COURT
AND
THE CLERK OF THE COURT
UPON RECEIPT.

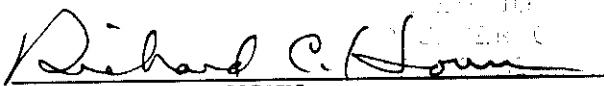
143

APPROVED:

LAW OFFICES OF
JOHN W. NORMAN INCORPORATED
ATTORNEYS FOR PLAINTIFF

By: 
JOHN W. NORMAN - OBA #6699
GINA L. HENDRYX - OBA #10330
Renaissance Centre East
127 N.W. 10th
Oklahoma City, OK 73103-4903
405/272-0200

ROGERS, HONN & ASSOCIATES
ATTORNEYS FOR SOUTHERN TALC COMPANY

By: 
RICHARD C. HONN
26 Oaks Office Park
2417 E. Skelly Drive
Tulsa, OK 74105

JWN/lc
10/04/89

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

OCT 16 1989 *at*

Jack C. Silver, Clerk
U.S. DISTRICT COURT

FLORA L. POWELL, individually, and as
surviving wife of HUBERT C. POWELL, deceased,

Plaintiff,

vs.

ANCHOR PACKING COMPANY, a corporation; et al.,

Defendants.

No. 88-C-555-E ✓

STIPULATED JOINT MOTION FOR,
AND ORDER OF, DISMISSAL
WITHOUT PREJUDICE AS TO DEFENDANT
PFIZER, INC.

Fed.R.Civ.P. 41(a)(2)

M O T I O N

Plaintiff and Defendant Pfizer, Inc., jointly move this
Court for an Order of Dismissal Without Prejudice of the above-
styled action.

FILED

OCT 23 1989

O R D E R

Jack C. Silver, Clerk
U.S. DISTRICT COURT

Upon the above and foregoing Joint and Stipulated Motion
for Order of Dismissal Without Prejudice, the above-styled action
is hereby dismissed without prejudice as to Pfizer, Inc., each
party to bear its own costs.


JAMES C. ELLISON
U.S. DISTRICT COURT JUDGE

NOTE: THIS CASE IS REMOVED
FROM THE COURT'S DOCKET AND
RECEIVED BY THE CLERK'S OFFICE
UPON RECEIPT.

APPROVED:

LAW OFFICES OF
JOHN W. NORMAN INCORPORATED
ATTORNEYS FOR PLAINTIFF

By: 

JOHN W. NORMAN - OBA #6699
GINA L. HENDRYX - OBA #10330
Renaissance Centre East
127 N.W. 10th
Oklahoma City, OK 73103-4903
405/272-0200

DAVIS, HOCKENBERG, WINE, BROWN, KOEHN & SHORS
ATTORNEYS FOR DEFENDANT PFIZER, INC.

By: 

MARGARET M. CHAPLINSKY
2300 Financial Center
555 Walnut Street
Des Moines, IA 50309
515/243-2300 (O)
515/243-0654 (F)

JWN/ta
10/04/89

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

OCT 16 1989 *CL*

Jack C. Silver, Clerk
U.S. DISTRICT COURT

BOBBY LEE BAUER, Plaintiff and)
HELEN L. BAUER, Plaintiff's spouse,)
and FRED FAULKNER, Plaintiff and)
MARGARET N. FAULKNER, Plaintiff's spouse,)
and IRA ROY DENMAN, Plaintiff, and)
DONNA MAXINE DENMAN, Plaintiff's spouse,)

Plaintiffs,)

vs.)

ANCHOR PACKING COMPANY, et al.,)

Defendants.)

No. 87-C-66-E ✓

STIPULATED JOINT MOTION FOR,
AND ORDER OF, DISMISSAL
WITHOUT PREJUDICE AS TO DEFENDANT
PFIZER, INC.

Fed.R.Civ.P. 41(a)(2)

M O T I O N

Plaintiffs and Defendant Pfizer, Inc., jointly move this Court for an Order of Dismissal Without Prejudice of the above-styled action.

FILED
OCT 23 1989

O R D E R

Jack C. Silver, Clerk
U.S. DISTRICT COURT

Upon the above and foregoing Joint and Stipulated Motion for Order of Dismissal Without Prejudice, the above-styled action is hereby dismissed without prejudice as to Pfizer, Inc., each party to bear its own costs.


JAMES O. ELLISON
U.S. DISTRICT COURT JUDGE

APPROVED:

LAW OFFICES OF
JOHN W. NORMAN INCORPORATED
ATTORNEYS FOR PLAINTIFFS

By: 

JOHN W. NORMAN OBA #6699
GINA L. HENDRYX OBA #10330
Renaissance Centre East
127 N.W. 10th
Oklahoma City, OK 73103-4903
405/272-0200

DAVIS, HOCKENBERG, WINE, BROWN, KOEHN & SHORS
ATTORNEYS FOR DEFENDANT PFIZER, INC.

By: 

MARGARET M. CHAPLINSKY
2300 Financial Center
555 Walnut Street
Des Moines, IA 50309
515/243-2300 (O)
515/243-0654 (F)

JWN/lc
10/04/89

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED
OCT 16 1989 *dt*

EVERETT ORVILLE HEMANN, and
MARIAN M. HEMANN, Plaintiff's Spouse,
Plaintiffs,

Jack C. Silver, Clerk
U.S. DISTRICT COURT

vs.

No. 88-C-701-E ✓

ANCHOR PACKING COMPANY, et al.,
Defendants.

STIPULATED JOINT MOTION FOR,
AND ORDER OF, DISMISSAL
WITHOUT PREJUDICE AS TO DEFENDANT
PFIZER, INC.

Fed.R.Civ.P. 41(a)(2)

M O T I O N

Plaintiffs and Defendant Pfizer, Inc., jointly move this
Court for an Order of Dismissal Without Prejudice of the above-
styled action.

FILED

O R D E R

OCT 23 1989 *S*

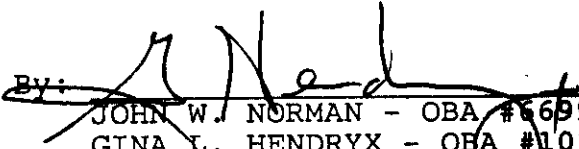
Upon the above and foregoing Joint and Stipulated Motion
for Order of Dismissal Without Prejudice, the above-styled action
is hereby dismissed without prejudice as to Pfizer, Inc., each
party to bear its own costs.

James O. Ellison
JAMES O. ELLISON
U.S. DISTRICT COURT JUDGE


NOTED FOR THE CLERK
BY THE CLERK OF COURT
AND
FILED IN THE CLERK'S OFFICE
UPON RECEIPT.

APPROVED:

LAW OFFICES OF
JOHN W. NORMAN INCORPORATED
ATTORNEYS FOR PLAINTIFFS

By: 
JOHN W. NORMAN - OBA #6699
GINA L. HENDRYX - OBA #10330
Renaissance Centre East
127 N.W. 10th
Oklahoma City, OK 73103-4903
405/272-0200

DAVIS, HOCKENBERG, WINE, BROWN, KOEHN & SHORS
ATTORNEYS FOR DEFENDANT PFIZER, INC.

By: 
MARGARET M. CHAPLINSKY
2300 Financial Center
555 Walnut Street
Des Moines, IA 50309
515/243-2300 (O)
515/243-0654 (F)

GLH/ta
10/11/89

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

OCT 16 1989

U.S. DISTRICT COURT

EVERETT ORVILLE HEMANN, and
MARIAN M. HEMANN, Plaintiff's Spouse,
Plaintiffs,

vs.

ANCHOR PACKING COMPANY, et al.,
Defendants.

No. 88-C-701-E ✓

STIPULATED JOINT MOTION FOR,
AND ORDER OF, DISMISSAL
WITHOUT PREJUDICE AS TO DEFENDANT
SOUTHERN TALC COMPANY

Fed.R.Civ.P. 41(a)(2)

M O T I O N

Plaintiffs and Defendant Southern Talc Company jointly
move this Court for an Order of Dismissal Without Prejudice of
the above-styled action.

FILED

OCT 23 1989

O R D E R

Jack C. Silver, Clerk
U.S. DISTRICT COURT

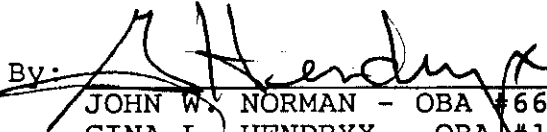
Upon the above and foregoing Joint and Stipulated Motion
for Order of Dismissal Without Prejudice, the above-styled action
is hereby dismissed without prejudice as to Southern Talc Com-
pany, each party to bear its own costs.


JAMES Q. ELLISON
U.S. DISTRICT COURT JUDGE

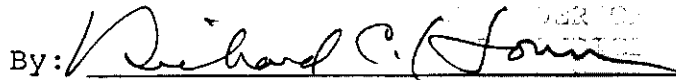
29

APPROVED:

LAW OFFICES OF
JOHN W. NORMAN INCORPORATED
ATTORNEYS FOR PLAINTIFF

By: 
JOHN W. NORMAN - OBA #6699
GINA L. HENDRYX - OBA #10330
Renaissance Centre East
127 N.W. 10th
Oklahoma City, OK 73103-4903
405/272-0200

ROGERS, HONN & ASSOCIATES
ATTORNEYS FOR SOUTHERN TALC COMPANY

By: 
RICHARD C. HONN
26 Oaks Office Park
2417 E. Skelly Drive
Tulsa, OK 74105

GLH/ta
10/11/89

FILED

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

OCT 15 1989 at

CLERK
U.S. DISTRICT COURT

BOBBY LEE BAUER, Plaintiff and)
HELEN L. BAUER, Plaintiff's spouse,)
and FRED FAULKNER, Plaintiff and)
MARGARET N. FAULKNER, Plaintiff's spouse,)
and IRA ROY DENMAN, Plaintiff, and)
DONNA MAXINE DENMAN, Plaintiff's spouse,)
Plaintiffs,)

No. 87-C-66-E ✓

vs.)

ANCHOR PACKING COMPANY, et al.,)
Defendants.)

STIPULATED JOINT MOTION FOR,
AND ORDER OF, DISMISSAL
WITHOUT PREJUDICE AS TO DEFENDANT
SOUTHERN TALC COMPANY

Fed.R.Civ.P. 41(a)(2)

M O T I O N

Plaintiffs and Defendant Southern Talc Company jointly
move this Court for an Order of Dismissal Without Prejudice of
the above-styled action.


FILED

OCT 23 1989

O R D E R

Jack C. Silver, Clerk
U.S. DISTRICT COURT

Upon the above and foregoing Joint and Stipulated Motion
for Order of Dismissal Without Prejudice, the above-styled action
is hereby dismissed without prejudice as to Southern Talc Com-
pany, each party to bear its own costs.


JAMES O. ELLISON
U.S. DISTRICT COURT JUDGE

APPROVED:

LAW OFFICES OF
JOHN W. NORMAN INCORPORATED
ATTORNEYS FOR PLAINTIFF

By: 

JOHN W. NORMAN - OBA #6699
GINA L. HENDRYX - OBA #10330
Renaissance Centre East
127 N.W. 10th
Oklahoma City, OK 73103-4903
405/272-0200

Plaintiff

ROGERS, HONN & ASSOCIATES
ATTORNEYS FOR SOUTHERN TALC COMPANY

By: 

RICHARD C. HONN
26 Oaks Office Park
2417 E. Skelly Drive
Tulsa, OK 74105

Defendant

JWN/lc
10/04/89

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

OCT 17 1989

JOHN FREDRICK TYREE, and MAXINE TYREE,
Plaintiff's Spouse,

Plaintiffs,

vs.

ANCHOR PACKING COMPANY, et al.,

Defendants.

Jack C. Silver, Clerk
U.S. DISTRICT COURT

No. 88-C-699-E

STIPULATED JOINT MOTION FOR,
AND ORDER OF, DISMISSAL
WITHOUT PREJUDICE AS TO DEFENDANT
H. K. PORTER COMPANY, INC.

Fed.R.Civ.P. 41 (a) (2)

M O T I O N

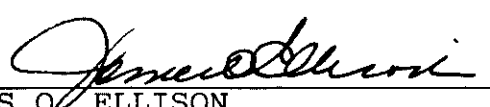
Plaintiffs and Defendant H. K. Porter Company, Inc.,
jointly move this Court for an Order of Dismissal without Preju-
dice of the above-styled action.

OCT 23 1989

O R D E R

Jack C. Silver, Clerk
U.S. DISTRICT COURT

Upon the above and foregoing Joint and Stipulation Motion
for Order of Dismissal Without Prejudice, the above-styled action
is hereby dismissed without prejudice as to H. K. Porter Company,
Inc., each party to bear its own costs.


JAMES O. ELLISON
U.S. DISTRICT COURT JUDGE

FILED
OCT 23 1989
U.S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

APPROVED:

LAW OFFICES OF
JOHN W. NORMAN INCORPORATED
ATTORNEYS FOR PLAINTIFFS

By: 

JOHN W. NORMAN - OBA #6699
GINA L. HENDRYX - OBA #10330
Renaissance Centre East
127 N.W. 10th
Oklahoma City, OK 73103-4903
405/272-0200

PRAY, WALKER, JACKMAN, WILLIAMSON & MARLAR
ATTORNEYS FOR DEFENDANT H. K. PORTER COMPANY

By: 

JOHN F. MCCORMICK, JR.
900 Oneok Plaza
Tulsa, OK 74103
918/584-4136 (O)
918/584-1446 (F)

-AND-

INGE, TWITTY, DUFFY, PRINCE & MCKEAN

By: 

GREY REDDITT
P.O. Box 1109
Mobile, AL 36633
205/433-5441 (O)
205/431-0159 (F)

JWN/lc
10/04/89

FILED

IN THE UNITED STATES DISTRICT COURT FOR THE OCT 17 1989
NORTHERN DISTRICT OF OKLAHOMA

Jack C. Silver, Clerk
U.S. DISTRICT COURT

FLORA L. POWELL, individually, and as)
surviving wife of HUBERT C. POWELL, deceased,)
)
Plaintiff,)
)
vs.)
)
ANCHOR PACKING COMPANY, et al.,)
)
Defendants.)

No. 88-C-555-E

STIPULATED JOINT MOTION FOR,
AND ORDER OF, DISMISSAL
WITHOUT PREJUDICE AS TO DEFENDANT
H. K. PORTER COMPANY, INC.

Fed.R.Civ.P. 41 (a) (2)

M O T I O N


Plaintiffs and Defendant H. K. Porter Company, Inc.,
jointly move this Court for an Order of Dismissal Without Prejudice
dice of the above-styled action.

OCT 23 1989

O R D E R

Jack C. Silver, Clerk
U.S. DISTRICT COURT

Upon the above and foregoing Joint and Stipulation Motion
for Order of Dismissal Without Prejudice, the above-styled action
is hereby dismissed without prejudice as to H. K. Porter Company,
Inc., each party to bear its own costs.


JAMES O. ELLISON
U.S. DISTRICT COURT JUDGE

NOTE: THIS DOCUMENT IS TO BE MAILED
BY COURIER TO ALL COUNSEL AND
IT TO BE RETURNED IMMEDIATELY
UPON RECEIPT.

APPROVED:

LAW OFFICES OF
JOHN W. NORMAN INCORPORATED
ATTORNEYS FOR PLAINTIFF

By: 

JOHN W. NORMAN - OBA #6699
GINA L. HENDRYX - OBA #10330
Renaissance Centre East
127 N.W. 10th
Oklahoma City, OK 73103-4903
405/272-0200

PRAY, WALKER, JACKMAN, WILLIAMSON & MARLAR
ATTORNEYS FOR DEFENDANT H. K. PORTER COMPANY

By: 

JOHN F. MCCORMICK, JR.
900 Oneok Plaza
Tulsa, OK 74103
918/584-4136 (O)
918/584-1446 (F)

-AND-

INGE, TWITTY, DUFFY, PRINCE & MCKEAN

By: 

GREG REDDITT
P.O. Box 1109
Mobile, AL 36633
205/433-5441 (O)
205/431-0159 (F)

JWN/lc
10/04/89

FILED

IN THE UNITED STATES DISTRICT COURT FOR THE OCT 17 1989
NORTHERN DISTRICT OF OKLAHOMA

Jack C. Silver, Clerk
U.S. DISTRICT COURT

BOBBY LEE BAUER, Plaintiff and)
HELEN L. BAUER, Plaintiff's spouse,)
and FRED FAULKNER, Plaintiff and)
MARGARET N. FAULKNER, Plaintiff's spouse,)
and IRA ROY DENMAN, Plaintiff, and)
DONNA MAXINE DENMAN, Plaintiff's spouse,) NO. 87-C-66-E
Plaintiffs,)
vs.)
ANCHOR PACKING COMPANY, et al.,)
Defendants.)

STIPULATED JOINT MOTION FOR,
AND ORDER OF, DISMISSAL
WITHOUT PREJUDICE AS TO DEFENDANT
H. K. PORTER COMPANY, INC.

Fed.R.Civ.P. 41 (a) (2)

M O T I O N

Plaintiffs and Defendant H. K. Porter Company, Inc.,
jointly move this Court for an Order of Dismissal Without Preju-
dice of the above-styled action. OCT 23 1989

O R D E R

Jack C. Silver, Clerk
U.S. DISTRICT COURT

Upon the above and foregoing Joint and Stipulation Motion
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is hereby dismissed without prejudice as to H. K. Porter Company,
Inc., each party to bear its own costs.


JAMES O. ELLISON
U.S. DISTRICT COURT JUDGE

NOTICE TO THE COURT AND COUNSEL AND
ALL PARTIES TO FILE IMMEDIATELY
UPON RECEIPT

APPROVED:

LAW OFFICES OF
JOHN W. NORMAN INCORPORATED
ATTORNEYS FOR PLAINTIFFS

By: 

JOHN W. NORMAN - OBA #6699
GINA L. HENDRIX - OBA #10330
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127 N.W. 10th
Oklahoma City, OK 73103-4903
405/272-0200

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918/584-1446 (F)

-AND-

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By: 

GREY REDDITT
P.O. Box 1109
Mobile, AL 36633
205/433-5441 (O)
205/431-0159 (F)

JWN/lc
10/04/89

FILED

OCT 17 1989

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

Jack C. Silver, Clerk
U.S. DISTRICT COURT

EVERETT ORVILLE HEMANN, and
MARIAN M. HEMANN, Plaintiff's Spouse,

Plaintiffs,

vs.

No. 88-C-701-E

ANCHOR PACKING COMPANY, et al.,

Defendants.

STIPULATED JOINT MOTION FOR,
AND ORDER OF, DISMISSAL
WITHOUT PREJUDICE AS TO DEFENDANT
H. K. PORTER COMPANY, INC.

Fed.R.Civ.P. 41 (a) (2)

M O T I O N

Plaintiffs and Defendant H. K. Porter Company, Inc.,
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dice of the above-styled action.

OCT 23 1989

O R D E R

Upon the above and foregoing Joint and Stipulation Motion
for Order of Dismissal Without Prejudice, the above-styled action
is hereby dismissed without prejudice as to H. K. Porter Company,
Inc., each party to bear its own costs.

Jack C. Silver, Clerk
U.S. DISTRICT COURT


JAMES O. ELLISON
U.S. DISTRICT COURT JUDGE

NOTE: TWO COPIES TO BE MAILED
TO THE CLERK OF COURT AND
FILED IN THE CASE FILE
U.S. DISTRICT COURT.

APPROVED:

LAW OFFICES OF
JOHN W. NORMAN INCORPORATED
ATTORNEYS FOR PLAINTIFFS

By: 

JOHN W. NORMAN - OBA #6699
GINA L. HENDRYX - OBA #10330
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127 N.W. 10th
Oklahoma City, OK 73103-4903
405/272-0200

PRAY, WALKER, JACKMAN, WILLIAMSON & MARLAR
ATTORNEYS FOR DEFENDANT H. K. PORTER COMPANY

By: 

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918/584-4136 (O)
918/584-1446 (F)

-AND-

INGE, TWITTY, DUFFY, PRINCE & MCKEAN

By: 

GREY REDDITT
P.O. Box 1109
Mobile, AL 36633
205/433-5441 (O)
205/431-0159 (F)

JWN/ta
10/05/89

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

OCT 10 1989

Jack C. Silver, Clerk
U.S. DISTRICT COURT

BOBBY LEE BAUER, Plaintiff and)
HELEN L. BAUER, Plaintiff's spouse,)
and FRED FAULKNER, Plaintiff and)
MARGARET N. FAULKNER, Plaintiff's spouse,)
and IRA ROY DENMAN, Plaintiff, and)
DONNA MAXINE DENMAN, Plaintiff's spouse,)
Plaintiffs,)

No. 87-C-66-E

vs.)

ANCHOR PACKING COMPANY, et al.,)
Defendants.)

STIPULATED JOINT MOTION FOR,
AND ORDER OF, DISMISSAL
WITHOUT PREJUDICE AS TO DEFENDANT
THE FLINTKOTE COMPANY, INC.

Fed.R.Civ.P. 41(a)(2)

M O T I O N

Plaintiffs and Defendant The Flintkote Company, Inc.,
jointly move this Court for an Order of Dismissal Without Preju-
dice of the above-styled action.

FILED

OCT 23 1989

O R D E R

Jack C. Silver, Clerk

U.S. DISTRICT COURT

Upon the above and foregoing Joint and Stipulated Motion
for Order of Dismissal Without Prejudice, the above-styled action
is hereby dismissed without prejudice as to The Flintkote Com-
pany, Inc., each party to bear its own costs.


JAMES O. ELLISON
U.S. DISTRICT COURT JUDGE

APPROVED:

LAW OFFICES OF
JOHN W. NORMAN INCORPORATED
ATTORNEYS FOR PLAINTIFFS

By: 

JOHN W. NORMAN OBA #6699
GINA L. HENDRYX OBA #10330
Renaissance Centre East
127 N.W. 10th
Oklahoma City, OK 73103-4903
405/272-0200

MCKINNEY, STRINGER & WEBSTER
ATTORNEYS FOR DEFENDANT THE FLINTKOTE COMPANY

By: 

DIXIE L. COFFEY
ROBERT D. TOMLINSON
101 N. Broadway
Oklahoma City, OK 73102
405/239-6444 (O)
405/239-7902 (F)

JWN/ta
10/05/89

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

OCT 18 1989

JOHN FREDRICK TYREE, and V. MAXINE TYREE,
Plaintiff's Spouse,

Plaintiffs,

vs.

ANCHOR PACKING COMPANY, et al.,

Defendants.

Jack C. Silver, Clerk
U.S. DISTRICT COURT

No. 88-C-699-E

STIPULATED JOINT MOTION FOR,
AND ORDER OF, DISMISSAL
WITHOUT PREJUDICE AS TO DEFENDANT
THE FLINTKOTE COMPANY, INC.

Fed.R.Civ.P. 41(a)(2)

M O T I O N

Plaintiffs and Defendant The Flintkote Company, Inc.,
jointly move this Court for an Order of Dismissal Without Preju-
dice of the above-styled action.

FILED

OCT 23 1989

O R D E R

Jack C. Silver, Clerk
U.S. DISTRICT COURT

Upon the above and foregoing Joint and Stipulated Motion
for Order of Dismissal Without Prejudice, the above-styled action
is hereby dismissed without prejudice as to The Flintkote Com-
pany, Inc., each party to bear its own costs.


JAMES O. ELLISON
U.S. DISTRICT COURT JUDGE

NOTE: THIS ORDER IS TO BE MAILED
BY MOVANT TO ALL COUNSEL AND
PRO SE LITIGANTS IMMEDIATELY,
UPON RECEIPT.

APPROVED:

LAW OFFICES OF
JOHN W. NORMAN INCORPORATED
ATTORNEYS FOR PLAINTIFFS

By: *J. Hendryx*

JOHN W. NORMAN OBA #6699
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MCKINNEY, STRINGER & WEBSTER
ATTORNEYS FOR DEFENDANT THE FLINTKOTE COMPANY

By: *Dixie L. Coffey*

DIXIE L. COFFEY
ROBERT D. TOMLINSON
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Oklahoma City, OK 73102
405/239-6444 (O)
405/239-7902 (F)

JWN/ta
10/05/89

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

OCT 13 1989

FLORA L. POWELL, individually, and as
surviving wife of HUBERT C. POWELL, deceased,

Plaintiff,

vs.

ANCHOR PACKING COMPANY, a corporation; et al.,

Defendants.

Jack C. Silver, Clerk
U.S. DISTRICT COURT

No. 88-C-555-E

STIPULATED JOINT MOTION FOR,
AND ORDER OF, DISMISSAL
WITHOUT PREJUDICE AS TO DEFENDANT
THE FLINTKOTE COMPANY, INC.

Fed.R.Civ.P. 41(a)(2)

M O T I O N

Plaintiff and Defendant The Flintkote Company, Inc.,
jointly move this Court for an Order of Dismissal Without Preju-
dice of the above-styled action.


FILED

OCT 23 1989

O R D E R


Jack C. Silver, Clerk
U.S. DISTRICT COURT

Upon the above and foregoing Joint and Stipulated Motion
for Order of Dismissal Without Prejudice, the above-styled action
is hereby dismissed without prejudice as to The Flintkote Com-
pany, Inc., each party to bear its own costs.



JAMES O. ELLISON
U.S. DISTRICT COURT JUDGE

APPROVED:

LAW OFFICES OF
JOHN W. NORMAN INCORPORATED
ATTORNEYS FOR PLAINTIFF

By: 
JOHN W. NORMAN - OBA #6699
GINA L. HENDRYX - OBA #10330
Renaissance Centre East
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405/272-0200

MCKINNEY, STRINGER & WEBSTER
ATTORNEYS FOR DEFENDANT THE FLINTKOTE COMPANY

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405/239-7902 (F)

JWN/ta
10/05/89

F I L E D

IN THE UNITED STATES DISTRICT COURT FOR THE OCT 13 1989
NORTHERN DISTRICT OF OKLAHOMA

Jack C. Silver, Clerk
U.S. DISTRICT COURT

EVERETT ORVILLE HEMANN, and
MARIAN M. HEMANN, Plaintiff's Spouse,
Plaintiffs,

vs.

ANCHOR PACKING COMPANY, et al.,
Defendants.

No. 88-C-701-E ✓

STIPULATED JOINT MOTION FOR,
AND ORDER OF, DISMISSAL
WITHOUT PREJUDICE AS TO DEFENDANT
THE FLINTKOTE COMPANY, INC.

Fed.R.Civ.P. 41(a)(2)

M O T I O N

Plaintiffs and Defendant The Flintkote Company, Inc.,
jointly move this Court for an Order of Dismissal Without Preju-
dice of the above-styled action.

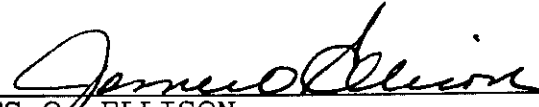
F I L E D

OCT 23 1989

O R D E R

Jack C. Silver, Clerk
U.S. DISTRICT COURT

Upon the above and foregoing Joint and Stipulated Motion
for Order of Dismissal Without Prejudice, the above-styled action
is hereby dismissed without prejudice as to The Flintkote Com-
pany, Inc., each party to bear its own costs.


JAMES O. ELLISON
U.S. DISTRICT COURT JUDGE

NOTE: THIS ORDER WAS RECORDED
BY CLERK OF COURT AND
PROCESSED BY CLERK
UPON RECEIPT.

APPROVED:

LAW OFFICES OF
JOHN W. NORMAN INCORPORATED
ATTORNEYS FOR PLAINTIFFS

By: 

JOHN W. NORMAN - OBA #6699
GINA L. HENDRYX - OBA #10330
Renaissance Centre East
127 N.W. 10th
Oklahoma City, OK 73103-4903
405/272-0200

McKINNEY, STRINGER & WEBSTER ^{Defendant}
ATTORNEYS FOR DEFENDANT THE FLINTKOTE COMPANY

By: 

DIXIE L. COFFEY
ROBERT D. TOMLINSON
101 N. Broadway
Oklahoma City, OK 73102
405/239-6444 (O)
405/239-7902 (F)

FILED

OCT 23 1989
J. L. Silver, Clerk
U.S. DISTRICT COURT

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

In Re:)	Case No. 88-03410-W
OTASCO, INC.,)	(Chapter 11)
)	
SMITH-JENKINS COMPANY OF MINDEN)	
d/b/a COMMUNITY DEVELOPMENT)	
CORPORATION,)	
Appellant,)	
)	
v.)	District Court Case
)	87-C-230-B
OTASCO, INC. and VARIETY)	87-C-230-B ✓
WHOLESALEERS, INC.,)	
)	
Appellees.)	

ORDER

Now before the Court is the appeal of Smith-Jenkins Company of Minden, LA. dba Community Development Corporation (hereinafter CDC) from an order of the United States Bankruptcy Court for the Northern District of Oklahoma dated March 16, 1989 on the Debtor's Alternative Motion to Assume and Assign or Sublet, to Reject or to Extend the Time to Assume or Reject Unexpired Leases of Non-Residential Real Property (Surplus Retail Space) (hereinafter Debtor's Motion), and from that court's order dated March 17, 1989 denying Appellants' Motion for Rehearing.

Community Development Corporation ("CDC") is the lessor of property known as Otasco Store No. 119, which was subject to an unexpired lease to the debtor, Otasco, Inc., ("Otasco"). On February 3, 1989, Otasco filed the Debtor's Motion. Debtor's Motion was set for hearing and CDC filed its Objection.

On February 15, 1989, the Court heard testimony concerning the marketing efforts with regard to the Surplus Retail Space described

4

in Debtor's Motion, which included Store No. 119. The Court heard the bids and other offers pertaining to the property encompassed in Debtor's Motion, objections thereto, and agreements and stipulations regarding the same. The Court found that notice of the Debtor's Motion was sufficient and proper and in compliance with the Court's Order for Hearing and found that good cause had been shown to grant the relief requested by the debtor.

With regard to Store No. 119, the Court initiated a telephone call to counsel for CDC to allow his appearance via the telephone as a courtesy to an out-of-state attorney. Upon reaching the office of R. Douglas Wood, Jr., the attorney for CDC, the Court was informed by the secretary for Mr. Wood that he was not in the office and that there were no other attorneys available to argue CDC's objection. The Court then requested that a message be left for Mr. Wood indicating that the Court had called.

Thereupon, the Court heard statements of counsel for the debtor, reviewed the objection, and found that there existed a valid, subsisting, and unexpired lease between CDC and the debtor that was capable of assumption and assignment. The Court approved the assumption of the lease by the debtor, found that the costs to cure all pre- and post-petition defaults was \$4,981.18, approved the assignment of the lease on Store No. 119 to Variety Wholesalers, Inc. ("Variety") for the sum of \$8,500.00 upon the determination that Variety had shown adequate assurance of future performance of the terms and conditions of the lease, and ordered that the lessor be paid the sum of \$4,981.18 from the proceeds of

the assignment and have no further claim in the estate.

CDC filed a Motion for Rehearing and Variety filed their Opposition to the motion. CDC asserted that OTASCO failed to assume or reject the lease within the time provided by failing to indicate its decision to assume or reject by an unequivocal act. The Court found that OTASCO's timely motion clearly set forth its intent with regard to the unexpired leases covered by the motion, and therefore the lease between debtor and CDC was valid and unexpired and capable of assumption and assignment.

CDC also asserted that OTASCO had failed to comply with 11 U.S.C. §365(b)(3)(C) and (D) relating to shopping centers, as the assignment of the lease to Variety violated an exclusivity provision CDC had in a lease with another tenant and would disrupt tenant mix and balance. The Court found that the provisions of §365(b)(3)¹ only applied to shopping center leases, not to all leases of commercial real estate. It found that the lessor of commercial real estate knew of provisions in other leases and the nature of a real estate development, and therefore the lessor, rather than the debtor, should have the burden of proving that a

¹ §365. Executory contracts and unexpired leases

...(b)(1) If there has been a default in an executory contract or unexpired lease of the debtor, the trustee may assume such contract or unexpired lease of the debtor, the trustee may not assume such contract or lease unless, at the time of assumption of such contract or lease, the trustee--

(A) cures, or provides adequate assurance that the trustee will promptly cure, such default;

(B) compensates, or provides adequate assurance that the trustee will promptly compensate, a party other than the debtor to such contract or lease, for any actual pecuniary loss to such party resulting from such default; and

(C) provides adequate assurance of future performance under such contract or lease.

...(3) For the purpose of paragraph (1) of this subsection and paragraph (2)(B) of subsection (f), adequate assurance of future performance of a lease of real property in a shopping center includes adequate assurance--

... (C) that assumption or assignment of such lease is subject to all the provisions thereof, including (but not limited to) provisions such as a radius, location, use, or exclusivity provision, and will not breach any such provision contained in any other lease, financing agreement, or master agreement relating to such shopping center; and

(D) that assumption or assignment of such lease will not disrupt any tenant mix or balance in such shopping center.

lease of commercial property is a lease of real property in a shopping center in order to invoke the provisions of § 365(b)(3). To meet this burden, the Court said that a lessor must show at the time of hearing an interdependent relationship among the tenants of the commercial real estate, by evidence of "typical indicia of shopping centers", including a master lease, fixed hours of operation, common areas, common ownership of contiguous parcels, an "anchor tenant", percentage rent, and joint advertising.

The Court found that CDC's request that §365(b)(3) be strictly complied with only raised an inference that the lease involved real property in a shopping center and CDC had failed to offer any evidence tending to show that the real property was in a shopping center. The Court noted that the practice of allowing appearances via telephone was extended only to allow argument, and in this matter testimony and documentary evidence was necessary to show that the real property was a shopping center. The Court pointed out that the leases between CDC and OTASCO and between CDC and TG&Y attached as exhibits for consideration regarding its Motion for Rehearing, contained anchor tenant provisions, exclusivity provisions, percentage rent, joint advertising through a proposed merchant's association, and for common areas, but these exhibits should have been introduced at the time of the hearing in order to address the issue of whether or not the real property covered by the lease was a shopping center. Having failed to produce this evidence in support of its broad request for compliance with §365(b)(3) at the time of the hearing of Debtor's Motion, CDC was

deemed to have waived this objection. The Court found that the lease between CDC and OTASCO regarding STORE NO. 119 was not a lease of real property in a shopping center.

The Court concluded that the assumption and assignment of CDC's lease was governed by the provisions of §365(f)(2), which permits the assignment of an unexpired lease provided that there is cure of default, compensation for actual pecuniary loss of such party that resulted from the default, and that there is adequate assurance of future performance by the assignee of such lease. The Court found that these provisions had been met by the payment of the pre- and post-petition costs to CDC and by the Court determining, after inquiry, Variety's ability to perform in the future under the terms and conditions of the lease including payment of both base and percentage rent. Based upon the determination that notice of Debtor's Motion was proper and sufficient, that CDC had failed to timely present evidence to meet the burden of proving that said lease involved property in a shopping center, and that the assumption of the lease on Store No. 119 by OTASCO and the assignment of the lease to Variety comported with the requirements of §365(f)(2), the Court denied CDC's Motion for Rehearing.

Bankruptcy Rule 8013 sets forth a "clearly erroneous" standard for appellate review of bankruptcy rulings with respect to findings of fact. In re: Morrissey, 717 F.2d 100, 104 (3rd Cir. 1983). However, this "clearly erroneous" standard does not apply to review of mixed questions of law and fact, which are subject to the de

novo standard of review. In re: Ruti-Sweetwater, Inc., 836 F.2d 1263, 1266 (10th Cir. 1988); In re: Mullett, 817 F.2d 677, 679 (10th Cir. 1987). The Court finds that this appeal involves several mixed questions of law and fact, so de novo review is proper.

The issues for review on appeal are as follows:

1. Did OTASCO indicate by unequivocal statement its intention to assume the lease of real property entered into by CDC and OTASCO when it filed its Debtor's Motion.
2. Did CDC receive reasonable notice and opportunity for hearing as to the issues decided at the February 15, 1989 hearing?
3. Did the Bankruptcy Court err in finding that the property covered by the lease was not part of a shopping center and therefore the provisions of 11 U.S.C. §365(b)(3) did not apply?
4. Did the Bankruptcy Court err in finding that there was "adequate assurance" under 11 U.S.C. §365(f)(2) when it allowed the assignment of the lease to Variety?
5. Did the Bankruptcy Court err in its calculation of the amount necessary to cover the default under the lease?
6. Did the Bankruptcy Court err in denying CDC's Motion for Rehearing?

The Court finds that OTASCO's Debtor's Motion indicated its intention to assume the lease between CDC and OTASCO. The Motion clearly set forth the desire for a hearing on February 15, 1989 to obtain orders authorizing the assumption of any of the leases. It provided that if no buyers were found for a lease on the list attached, the debtor would reject the lease or extend the time to assume or reject.

The Court concludes that CDC received reasonable notice² of the February 15, 1989 hearing. No objection to notice was made at or before the hearing by CDC.

The Court finds that inferences were raised at the February 15, 1989 hearing that the #119 OTASCO Lease involved real property in a shopping center.³ Based on these inferences it was error for the Bankruptcy Court to hold that CDC failed to offer evidence showing whether the property was in a shopping center and if the provisions of 11 U.S.C. §365(b)(3) applied. It appears to this Court the property was in a shopping center and therefore 11 U.S.C. §365(b)(3) should have been followed.

The Court also concludes that the Bankruptcy Court failed to receive from the debtor proof which would have adequately assured future performance under the lease, such as financial data indicating an ability to generate an income stream sufficient to meet its obligations, a guarantee, and considerations of the general economic outlook in the industry. See, Richmond Leasing Co. v. Capital Bank, N.A., 762 F.2d 1303, 1310 (5th Cir. 1985). The Court only received counsel's representation that adequate assurance existed and no proof was required. No financial statement was introduced.

The Court also determines that CDC did not dispute the

² The Debtor's Motion was mailed to CDC on 2-6-89 as shown by the certificate of mailing (Bankruptcy instrument #374). Also, CDC's objection to Debtor's Motion, which objection was filed 2-10-89, alludes to the imminent 2-15-89 hearing.

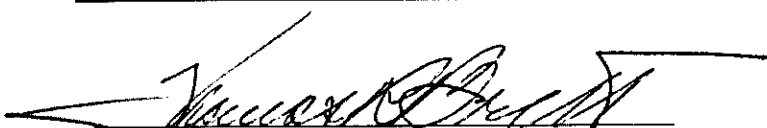
³ The Bankruptcy Court pointed out that the leases between CDC and OTASCO and between CDC and TG&Y, which were attached as exhibits to CDC's Motion for Rehearing contained anchor tenant provisions, exclusivity provision, percentage rent, joint advertising through a proposed merchant's association, and provision of common areas. A plat of the shopping center was also attached to CDC's Motion for Rehearing and is attached to this Order as Exhibit A.

Bankruptcy Court's calculation of the amount necessary to cover the default under the lease until it filed this appeal. This matter should have been raised in the Motion for Rehearing. It would be improper for this Court to consider it at this time.

Therefore, the Court concludes that the Bankruptcy Court erred in denying CDC's Motion for Rehearing to allow further evidence to be submitted as to the shopping center and adequate assurance issues.⁴

It is ordered that the Order of the Bankruptcy Court dated March 17, 1989 denying Appellants' Motion for Rehearing be and hereby is reversed. The case is remanded for an evidentiary hearing as to the shopping center and adequate assurance issues.

SO ORDERED THIS 23rd day of Oct., 1989.


THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

⁴ The Court is mindful of the complex nature of this portion of the OTASCO matter - some ninety (90) different properties to be dealt with at the hearing. Although the trial court's action at the February 15, 1989 hearing was understandable, this Court is of the opinion the Motion to Reconsider should have been granted.

[illegible]

SIT AREA
6005 LEASABLE AREA
CAN PARKING.

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED

OCT 20 1989

RONNIE J. HOLT,

Plaintiff,

vs.


Case No. 89-C-731 E

TERRY LAFLIN, an Individual, THE
CITY OF OWASSO, a Political
Subdivison, DAVID MOSS, District
Attorney for Tulsa County, State of
Oklahoma, STANLEY GLANZ, Sheriff
of Tulsa County, State of Oklahoma,
Defendants.

DISMISSAL WITHOUT PREJUDICE

COMES now the Plaintiff, RONNIE J. HOLT, and hereby dismisses
Defendant, DAVID MOSS, District Attorney for Tulsa County, State of Oklahoma,
without prejudice.

DATED this 20th day of October, 1989.



RICHARD D. WHITE, JR., OBA #9549
427 S. Boston, Suite 1802
Tulsa, Oklahoma 74103
(918) 582-7888

CERTIFICATE OF MAILING

I, RICHARD D. WHITE, JR., do hereby certify that on the 20th day of
October, 1989, I mailed a true and correct copy of the above and foregoing Dismissal
to: JOHN H. LIEBER, 2727 E. 21st St., Suite 200, Tulsa, Oklahoma 74114 and
RONALD D. CATES, 12620 E. 86th St. N., Owasso, Oklahoma 74055



RICHARD D. WHITE, JR.

JWN/ta
10/04/89

FILED

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

OCT 17 1989
Jack C. Silver, Clerk
U.S. DISTRICT COURT

JOHNNIE JUNIOR ENGLAND, and)
KATHRYN JANIE ENGLAND, Plaintiff's Spouse,)

Plaintiffs,)

vs.)

No. 88-C-709-C

ANCHOR PACKING COMPANY, et al.,)

Defendants.)

STIPULATED JOINT MOTION FOR,
AND ORDER OF, DISMISSAL
WITHOUT PREJUDICE AS TO DEFENDANT
H. K. PORTER COMPANY, INC.

Fed.R.Civ.P. 41 (a) (2)

M O T I O N

Plaintiffs and Defendant H. K. Porter Company, Inc.,
jointly move this Court for an Order of Dismissal Without Preju-
dice of the above-styled action.

O R D E R

Upon the above and foregoing Joint and Stipulation Motion
for Order of Dismissal Without Prejudice, the above-styled action
is hereby dismissed without prejudice as to H. K. Porter Company,
Inc., each party to bear its own costs.

FILED

OCT 21 1989

Jack C. Silver, Clerk
U.S. DISTRICT COURT

H. DALE COOK

U.S. DISTRICT COURT JUDGE

131

APPROVED:

LAW OFFICES OF
JOHN W. NORMAN INCORPORATED
ATTORNEYS FOR PLAINTIFFS

By: 

JOHN W. NORMAN - OBA #6699
GINA L. HENDRYX - OBA #10330
Renaissance Centre East
127 N.W. 10th
Oklahoma City, OK 73103-4903
405/272-0200

PRAY, WALKER, JACKMAN, WILLIAMSON & MARLAR
ATTORNEYS FOR DEFENDANT H. K. PORTER COMPANY

By: 

JOHN F. MCCORMICK, JR.
900 Oneok Plaza
Tulsa, OK 74103
918/584-4136 (O)
918/584-1446 (F)

-AND-

INGE, TWITTY, DUFFY, PRINCE & MCKEAN

By: 

GREY REDDITT
P.O. Box 1109
Mobile, AL 36633
205/433-5441 (O)
205/431-0159 (F)

JWN/ta
10/05/89

FILED

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

OCT 18 1989

Jack C. Silver, Clerk
U.S. DISTRICT COURT

BILLY FRANKLIN WILLIAMS,

Plaintiff,

vs.

ANCHOR PACKING COMPANY, et al.,

Defendants.

No. 88-C-716-B

STIPULATED JOINT MOTION FOR,
AND ORDER OF, DISMISSAL
WITHOUT PREJUDICE AS TO DEFENDANT
THE FLINTKOTE COMPANY, INC.

Fed.R.Civ.P. 41(a)(2)

M O T I O N

Plaintiff and Defendant The Flintkote Company, Inc.,
jointly move this Court for an Order of Dismissal Without Prejudice of the above-styled action.

O R D E R

Upon the above and foregoing Joint and Stipulated Motion for Order of Dismissal Without Prejudice, the above-styled action is hereby dismissed without prejudice as to The Flintkote Company, Inc., each party to bear its own costs.

S/ THOMAS R. BRETT

THOMAS R. BRETT
U.S. DISTRICT COURT JUDGE

APPROVED:

LAW OFFICES OF
JOHN W. NORMAN INCORPORATED
ATTORNEYS FOR PLAINTIFF

By: 

JOHN W. NORMAN - OBA #6699
GINA L. HENDRYX - OBA #10330
Renaissance Centre East
127 N.W. 10th
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405/272-0200

MCKINNEY, STRINGER & WEBSTER
ATTORNEYS FOR DEFENDANT THE FLINTKOTE COMPANY

By: 

DIXIE L. COFFEY
ROBERT D. TOMLINSON
101 N. Broadway
Oklahoma City, OK 73102
405/239-6444 (O)
405/239-7902 (F)

JWN/ta
10/05/89

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

OCT 18 1989

RUFUS HOWARD HOLT, and
LETHA L. HOLT, Plaintiff's Spouse,

Plaintiffs,

vs.

ANCHOR PACKING COMPANY, et al.,

Defendants.

Jack C. Silver, Clerk
U.S. DISTRICT COURT

No. 88-C-707-B

STIPULATED JOINT MOTION FOR,
AND ORDER OF, DISMISSAL
WITHOUT PREJUDICE AS TO DEFENDANT
THE FLINTKOTE COMPANY, INC.

Fed.R.Civ.P. 41(a)(2)

M O T I O N

Plaintiffs and Defendant The Flintkote Company, Inc.,
jointly move this Court for an Order of Dismissal Without Preju-
dice of the above-styled action.

O R D E R

Upon the above and foregoing Joint and Stipulated Motion
for Order of Dismissal Without Prejudice, the above-styled action
is hereby dismissed without prejudice as to The Flintkote Com-
pany, Inc., each party to bear its own costs.

S/ THOMAS R. BRETT
THOMAS R. BRETT
U.S. DISTRICT COURT JUDGE

APPROVED:

LAW OFFICES OF
JOHN W. NORMAN INCORPORATED
ATTORNEYS FOR PLAINTIFFS

By: 

JOHN W. NORMAN - OBA #6699
GINA L. HENDRYX - OBA #10330
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MCKINNEY, STRINGER & WEBSTER
ATTORNEYS FOR DEFENDANT THE FLINTKOTE COMPANY

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ROBERT D. TOMLINSON
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405/239-6444 (O)
405/239-7902 (F)

JWN/ta
10/05/89

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

F I L E D

OCT 10 1989

JAY WILLIAM BLAIR, and
MILDRED L. BLAIR, Plaintiff's Spouse,

Plaintiffs,

vs.

ANCHOR PACKING COMPANY, et al.,

Defendants.

Jack C. Silver, Clerk
U.S. DISTRICT COURT

No. 88-C-720-B

STIPULATED JOINT MOTION FOR,
AND ORDER OF, DISMISSAL
WITHOUT PREJUDICE AS TO DEFENDANT
THE FLINTKOTE COMPANY, INC.

Fed.R.Civ.P. 41(a)(2)

M O T I O N

Plaintiffs and Defendant The Flintkote Company, Inc.,
jointly move this Court for an Order of Dismissal Without Preju-
dice of the above-styled action.

O R D E R

Upon the above and foregoing Joint and Stipulated Motion
for Order of Dismissal Without Prejudice, the above-styled action
is hereby dismissed without prejudice as to The Flintkote Com-
pany, Inc., each party to bear its own costs.

S/ THOMAS R. BRETT

THOMAS R. BRETT
U.S. DISTRICT COURT JUDGE

APPROVED:

LAW OFFICES OF
JOHN W. NORMAN INCORPORATED
ATTORNEYS FOR PLAINTIFFS

By: *G. Hendryx*
JOHN W. NORMAN - OBA #6699
GINA L. HENDRYX - OBA #10330
Renaissance Centre East
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Oklahoma City, OK 73103-4903
405/272-0200

MCKINNEY, STRINGER & WEBSTER
ATTORNEYS FOR DEFENDANT THE FLINTKOTE COMPANY

By: *Dixie L. Coffey*
DIXIE L. COFFEY
ROBERT D. TOMLINSON
101 N. Broadway
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405/239-6444 (O)
405/239-7902 (F)

JWN/ta
10/05/89

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

OCT 18 1989

DENNIS LLOYD EARP, and
PEGGY EARP, Plaintiff's Spouse,

Plaintiffs,

vs.

ANCHOR PACKING COMPANY, et al.,

Defendants.

Jack C. Silver, Clerk
U.S. DISTRICT COURT

No. 88-C-704-B

STIPULATED JOINT MOTION FOR,
AND ORDER OF, DISMISSAL
WITHOUT PREJUDICE AS TO DEFENDANT
THE FLINTKOTE COMPANY, INC.

Fed.R.Civ.P. 41(a)(2)

M O T I O N

Plaintiffs and Defendant The Flintkote Company, Inc.,
jointly move this Court for an Order of Dismissal Without Preju-
dice of the above-styled action.

O R D E R


Upon the above and foregoing Joint and Stipulated Motion
for Order of Dismissal Without Prejudice, the above-styled action
is hereby dismissed without prejudice as to The Flintkote Com-
pany, Inc., each party to bear its own costs.

S/ THOMAS R. BRETT

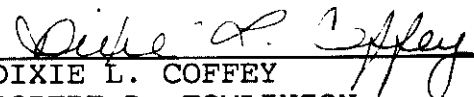
THOMAS R. BRETT
U.S. DISTRICT COURT JUDGE

APPROVED:

LAW OFFICES OF
JOHN W. NORMAN INCORPORATED
ATTORNEYS FOR PLAINTIFFS

By: 
JOHN W. NORMAN - OBA #6699
GINA L. HENDRYX - OBA #10330
Renaissance Centre East
127 N.W. 10th
Oklahoma City, OK 73103-4903
405/272-0200

McKINNEY, STRINGER & WEBSTER
ATTORNEYS FOR DEFENDANT THE FLINTKOTE COMPANY

By: 
DIXIE L. COFFEY
ROBERT D. TOMLINSON
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Oklahoma City, OK 73102
405/239-6444 (O)
405/239-7902 (F)

GLH/ta
10/11/89

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

JAY WILLIAM BLAIR, and
MILDRED L. BLAIR, Plaintiff's Spouse,

Plaintiffs,

vs.

ANCHOR PACKING COMPANY, et al.,

Defendants.

No. 88-C-720-B

STIPULATED JOINT MOTION FOR,
AND ORDER OF, DISMISSAL
WITHOUT PREJUDICE AS TO DEFENDANT
GAF CORPORATION

Fed.R.Civ.P. 41(a)(2)

M O T I O N

Plaintiffs and Defendant GAF Corporation jointly move
this Court for an Order of Dismissal Without Prejudice of the
above-styled action.

O R D E R

Upon the above and foregoing Joint and Stipulated Motion
for Order of Dismissal Without Prejudice, the above-styled action
is hereby dismissed without prejudice as to GAF Corporation, each
party to bear its own costs.

S/ THOMAS R. BRETT

THOMAS R. BRETT
U.S. DISTRICT COURT JUDGE

FILE COPY

RECORDED - 146

APPROVED:

LAW OFFICES OF
JOHN W. NORMAN INCORPORATED
ATTORNEYS FOR PLAINTIFF

By: 

JOHN W. NORMAN - OBA #6699
GINA L. HENDRYX - OBA #10330
Renaissance Centre East
127 N.W. 10th
Oklahoma City, OK 73103-4903
405/272-0200

DAVIS, HOCKENBERG, WINE, BROWN, KOEHN & SHORS
ATTORNEYS FOR DEFENDANT GAF CORPORATION

By: 

CHARLES J. KALINOSKI
2300 Financial Center
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Des Moines, IA 50309
515/243-2300 (O)
515/243-0654 (F)

GLH/ta
10/11/89

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

JAY WILLIAM BLAIR, and
MILDRED L. BLAIR, Plaintiff's Spouse,

Plaintiffs,

vs.

ANCHOR PACKING COMPANY, et al.,

Defendants.

No. 88-C-720-B

STIPULATED JOINT MOTION FOR,
AND ORDER OF, DISMISSAL
WITHOUT PREJUDICE AS TO DEFENDANT
KEENE CORPORATION

Fed.R.Civ.P. 41(a)(2)

M O T I O N

Plaintiffs and Defendant Keene Corporation jointly move
this Court for an Order of Dismissal Without Prejudice of the
above-styled action.

O R D E R

Upon the above and foregoing Joint and Stipulated Motion
for Order of Dismissal Without Prejudice, the above-styled action
is hereby dismissed without prejudice as to Keene Corporation,
each party to bear its own costs.

S/ THOMAS R. BRETT

THOMAS R. BRETT
U.S. DISTRICT COURT JUDGE

APPROVED:

LAW OFFICES OF
JOHN W. NORMAN INCORPORATED
ATTORNEYS FOR PLAINTIFFS

By: 

JOHN W. NORMAN - OBA #6699
GINA L. HENDRYX - OBA #10330
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Oklahoma City, OK 73103-4903
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DAVIS, HOCKENBERG, WINE, BROWN, KOEHN & SHORS
ATTORNEYS FOR DEFENDANT KEENE CORPORATION

By: 

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2300 Financial Center
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Des Moines, IA 50309
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515/243-0654 (F)

GLH/ta
10/11/89

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

RUFUS HOWARD HOLT, and)	
LETHA L. HOLT, Plaintiff's Spouse,)	
)	
Plaintiffs,)	
)	
vs.)	No. 88-C-707-B
)	
ANCHOR PACKING COMPANY, et al.,)	
)	
Defendants.)	

STIPULATED JOINT MOTION FOR,
AND ORDER OF, DISMISSAL
WITHOUT PREJUDICE AS TO DEFENDANT
KEENE CORPORATION

Fed.R.Civ.P. 41(a)(2)

M O T I O N

Plaintiffs and Defendant Keene Corporation jointly move this Court for an Order of Dismissal Without Prejudice of the above-styled action.

O R D E R

Upon the above and foregoing Joint and Stipulated Motion for Order of Dismissal Without Prejudice, the above-styled action is hereby dismissed without prejudice as to Keene Corporation, each party to bear its own costs.

S/ THOMAS R. BRETT

THOMAS R. BRETT
U.S. DISTRICT COURT JUDGE

APPROVED:

LAW OFFICES OF
JOHN W. NORMAN INCORPORATED
ATTORNEYS FOR PLAINTIFFS

By: 

JOHN W. NORMAN - OBA #6699
GINA L. HENDRYX - OBA #10330
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Oklahoma City, OK 73103-4903
405/272-0200

DAVIS, HOCKENBERG, WINE, BROWN, KOEHN & SHORS
ATTORNEYS FOR DEFENDANT KEENE CORPORATION

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CHARLES J. KALINOSKI
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515/243-0654 (F)

GLH/ta
10/11/89

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

DENNIS LLOYD EARP, and
PEGGY EARP, Plaintiff's Spouse,

Plaintiffs,

vs.

ANCHOR PACKING COMPANY, et al.,

Defendants.

No. 88-C-704-B

STIPULATED JOINT MOTION FOR,
AND ORDER OF, DISMISSAL
WITHOUT PREJUDICE AS TO DEFENDANT
KEENE CORPORATION

Fed.R.Civ.P. 41(a)(2)

M O T I O N

Plaintiffs and Defendant Keene Corporation jointly move this Court for an Order of Dismissal Without Prejudice of the above-styled action.

O R D E R

Upon the above and foregoing Joint and Stipulated Motion for Order of Dismissal Without Prejudice, the above-styled action is hereby dismissed without prejudice as to Keene Corporation, each party to bear its own costs.

S/ THOMAS R. BRETT

THOMAS R. BRETT
U.S. DISTRICT COURT JUDGE

APPROVED:

LAW OFFICES OF
JOHN W. NORMAN INCORPORATED
ATTORNEYS FOR PLAINTIFFS

By: 

JOHN W. NORMAN - OBA #6699
GINA L. HENDRYX - OBA #10330
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Oklahoma City, OK 73103-4903
405/272-0200

DAVIS, HOCKENBERG, WINE, BROWN, KOEHN & SHORS
ATTORNEYS FOR DEFENDANT KEENE CORPORATION

By: 

CHARLES J. KALINOSKI
2300 Financial Center
555 Walnut Street
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515/243-2300 (O)
515/243-0654 (F)

GLH/ta
10/11/89

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

RUFUS HOWARD HOLT, and
LETHA L. HOLT, Plaintiff's Spouse,

Plaintiffs,

vs.

ANCHOR PACKING COMPANY, et al.,

Defendants.

No. 88-C-707-B

STIPULATED JOINT MOTION FOR,
AND ORDER OF, DISMISSAL
WITHOUT PREJUDICE AS TO DEFENDANT
GAF CORPORATION

Fed.R.Civ.P. 41(a)(2)

M O T I O N

Plaintiffs and Defendant GAF Corporation jointly move
this Court for an Order of Dismissal Without Prejudice of the
above-styled action.

O R D E R

Upon the above and foregoing Joint and Stipulated Motion
for Order of Dismissal Without Prejudice, the above-styled action
is hereby dismissed without prejudice as to GAF Corporation, each
party to bear its own costs.

S/ THOMAS R. BRETT
THOMAS R. BRETT
U.S. DISTRICT COURT JUDGE

FILE COPY

REG-0001-1-1989

APPROVED:

LAW OFFICES OF
JOHN W. NORMAN INCORPORATED
ATTORNEYS FOR PLAINTIFF

By: 

JOHN W. NORMAN - OBA #6899
GINA L. HENDRYX - OBA #10330
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DAVIS, HOCKENBERG, WINE, BROWN, KOEHN & SHORS
ATTORNEYS FOR DEFENDANT GAF CORPORATION

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2300 Financial Center
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515/243-0654 (F)

GLH/ta
10/11/89

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

DENNIS LLOYD EARP, and
PEGGY EARP, Plaintiff's Spouse,

Plaintiffs,

vs.

ANCHOR PACKING COMPANY, et al.,

Defendants.

No. 88-C-704-B

STIPULATED JOINT MOTION FOR,
AND ORDER OF, DISMISSAL
WITHOUT PREJUDICE AS TO DEFENDANT
GAF CORPORATION

Fed.R.Civ.P. 41(a)(2)

M O T I O N

Plaintiffs and Defendant GAF Corporation jointly move
this Court for an Order of Dismissal Without Prejudice of the
above-styled action.

O R D E R

Upon the above and foregoing Joint and Stipulated Motion
for Order of Dismissal Without Prejudice, the above-styled action
is hereby dismissed without prejudice as to GAF Corporation, each
party to bear its own costs.

S/ THOMAS R. BRETT

THOMAS R. BRETT
U.S. DISTRICT COURT JUDGE

RECEIVED 10 1989

FILE COPY

APPROVED:

LAW OFFICES OF
JOHN W. NORMAN INCORPORATED
ATTORNEYS FOR PLAINTIFF

By: 

JOHN W. NORMAN - OBA #6699
GINA L. HENDRYX - OBA #10330
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405/272-0200

DAVIS, HOCKENBERG, WINE, BROWN, KOEHN & SHORS
ATTORNEYS FOR DEFENDANT GAF CORPORATION

By: 

CHARLES J. KALINOSKI
2300 Financial Center
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515/243-2300 (O)
515/243-0654 (F)

GLH/ta
10/11/89

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

BILLY FRANKLIN WILLIAMS,

Plaintiff,

vs.

ANCHOR PACKING COMPANY, et al.,

Defendants.

No. 88-C-716-B

STIPULATED JOINT MOTION FOR,
AND ORDER OF, DISMISSAL
WITHOUT PREJUDICE AS TO DEFENDANT
GAF CORPORATION

Fed.R.Civ.P. 41(a)(2)

M O T I O N

Plaintiff and Defendant GAF Corporation jointly move this Court for an Order of Dismissal Without Prejudice of the above-styled action.

O R D E R

Upon the above and foregoing Joint and Stipulated Motion for Order of Dismissal Without Prejudice, the above-styled action is hereby dismissed without prejudice as to GAF Corporation, each party to bear its own costs.

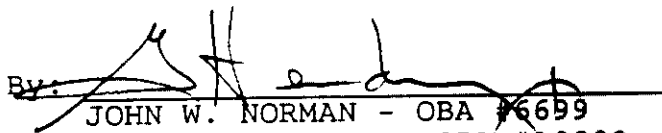
~~S/ THOMAS R. BRETT~~
THOMAS R. BRETT
U.S. DISTRICT COURT JUDGE

FILE COPY

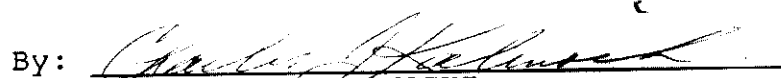
REC'D OCT 11 1989

APPROVED:

LAW OFFICES OF
JOHN W. NORMAN INCORPORATED
ATTORNEYS FOR PLAINTIFF

By: 
JOHN W. NORMAN - OBA #6699
GINA L. HENDRYX - OBA #10330
Renaissance Centre East
127 N.W. 10th
Oklahoma City, OK 73103-4903
405/272-0200

DAVIS, HOCKENBERG, WINE, BROWN, KOEHN & SHORS
ATTORNEYS FOR DEFENDANT GAF CORPORATION

By: 
CHARLES J. KALINOSKI
2300 Financial Center
555 Walnut Street
Des Moines, IA 50309
515/243-2300 (O)
515/243-0654 (F)

GLH/ta
10/11/89

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

BILLY FRANKLIN WILLIAMS,

Plaintiff,

vs.

ANCHOR PACKING COMPANY, et al.,

Defendants.

No. 88-C-716-B

STIPULATED JOINT MOTION FOR,
AND ORDER OF, DISMISSAL
WITHOUT PREJUDICE AS TO DEFENDANT
KEENE CORPORATION

Fed.R.Civ.P. 41(a)(2)

M O T I O N

Plaintiff and Defendant Keene Corporation jointly move
this Court for an Order of Dismissal Without Prejudice of the
above-styled action.

O R D E R

Upon the above and foregoing Joint and Stipulated Motion
for Order of Dismissal Without Prejudice, the above-styled action
is hereby dismissed without prejudice as to Keene Corporation,
each party to bear its own costs.

S/ THOMAS R. BRETT

THOMAS R. BRETT
U.S. DISTRICT COURT JUDGE

APPROVED:

LAW OFFICES OF
JOHN W. NORMAN INCORPORATED
ATTORNEYS FOR PLAINTIFF

By: 

JOHN W. NORMAN - OBA #6699
GINA L. HENDRYX - OBA #10330
Renaissance Centre East
127 N.W. 10th
Oklahoma City, OK 73103-4903
405/272-0200

DAVIS, HOCKENBERG, WINE, BROWN, KOEHN & SHORS
ATTORNEYS FOR DEFENDANT KEENE CORPORATION

By: 

CHARLES J. KALINOSKI
2300 Financial Center
555 Walnut Street
Des Moines, IA 50309
515/243-2300 (O)
515/243-0654 (F)

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

THE CIT GROUP/FACTORING
MEINHARD-COMMERCIAL WESTERN
INC.,

Plaintiff,

vs.

METRO VIDEO DIST., INC.,

Defendant.

FILED

OCT 20 1989 *dt*

No. 88-C-1653-E ✓


Jack C. Silver, Clerk
U.S. DISTRICT COURT

ADMINISTRATIVE CLOSING ORDER

The Defendant having filed its petition in bankruptcy and these proceedings being stayed thereby, it is hereby ordered that the Clerk administratively terminate this action in his records, without prejudice to the rights of the parties to reopen the proceedings for good cause shown for the entry of any stipulation or order, or for any other purpose required to obtain a final determination of the litigation.

If, within thirty (30) days of a final adjudication of the bankruptcy proceedings the parties have not reopened for the purpose of obtaining a final determination herein, this action shall be deemed dismissed with prejudice.

ORDERED this 19th day of October, 1989.



JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

DAVID RUNNELS,

Plaintiff,

vs.

No. 88-C-1382-B

FARMERS INSURANCE EXCHANGE,
TRUCK INSURANCE EXCHANGE,
FIRE INSURANCE EXCHANGE,
MID-CENTURY INSURANCE CO.,
FARMERS NEW WORLD LIFE INS.
CO., FARMERS INSURANCE CO.,
INC.,

Defendants.)

J U D G M E N T

In accordance with the jury verdict rendered this date, Judgment is hereby entered in favor of Defendants, Farmers Insurance Exchange, Truck Insurance Exchange, Fire Insurance Exchange, Mid-Century Insurance Co., Farmers New World Life Ins. Co., and Farmers Insurance Co., Inc., and against Plaintiff, David Runnels. Costs are assessed against Plaintiff if timely applied for under Local Rule 6.

DATED this 20th day of October, 1989.



THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

**IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA**

OCT 20 1989

JACK G. SMITH, CLERK
U.S. DISTRICT COURT

HESS OIL VIRGIN ISLANDS CORP.,
et al.,

Plaintiffs,

vs.

No. 75-C-383-C

UOP, INC.,
a Delaware corporation,

Defendant.

ORDER

This matter came on for hearing on June 1, 1989. The Court directed the parties to file supplemental briefs as to certain issues. The Court now enters its Order regarding all pending issues.

Plaintiffs sought recovery from defendant for damages sustained when a refinery belonging to plaintiff Hess Oil Virgin Islands Corp. (HOVIC) exploded and burned on August 24, 1973. The action was bifurcated by the agreement of all parties. On the liability issue, the jury returned a verdict in favor of the plaintiffs and against defendant, finding defendant UOP 70% negligent and plaintiff HOVIC 30% contributorily negligent.

Subsequent to the liability trial and prior to the damages trial, this Court granted defendant's motion for partial summary judgment holding that HOVIC had contractually exculpated defendant from liability for "consequential" damages. As a result of the Court order limiting damages, plaintiffs' claim was reduced to approximately \$4,009,359.

The case proceeded before the same jury on the damages issue as limited by the Court's order of partial summary judgment. The jury returned a verdict and awarded plaintiffs the full amount of damages requested, and judgment was entered on this verdict on June 25, 1982, in the amount of \$4,009,359.00

Thereafter, upon defendant's motion, this Court reduced the award. (Order, September 10, 1984). The Court held the defendant UOP should be credited for the \$1.5 million paid in settlement by former defendants and that UOP should receive that credit after damages were first reduced by the amount of the verdict in excess of the subrogated payment and by the 30% representing HOVIC's percentage of negligence. An amended judgment was entered in the amount of \$1,166,638.82 with post-judgment interest, and costs in the amount of \$20,178.78.

The Tenth Circuit affirmed the jury's finding of liability and this Court's interpretation of the exculpatory clause. It disagreed with this Court's calculation of the settlement credit, and further remanded the case to allow plaintiff "an opportunity to present evidence to support the claim" for attorneys fees. Hess Oil Virgin Islands Corp. v. UOP, Inc., 861 F.2d 1197 (10th Cir. 1988).

Plaintiffs now move the Court to amend the judgment in several respects. First, plaintiffs note that the Tenth Circuit ruled that the amount of settlement credit should be applied prior to deducting HOVIC's percentage of negligence. This would result in an amended award to plaintiffs of \$1,616,638.80. Plaintiffs also seek costs on appeal of \$802.30. Defendant does not object to either request.

Second, plaintiffs request post-judgment interest to run as to the full amount (i.e., \$1,616,638.80) from June 25, 1982, the date of the original judgment. As the Court stated at the hearing, the Court agrees with plaintiff. See Northern Natural Gas Co. v. Hegler, 818 F.2d 730 (10th Cir. 1987), cert. denied, 109 S.Ct. 7 (1988). The parties agree that 9% per annum is the appropriate interest rate. Thus, pursuant to agreement, judgment will be entered for \$1,616,638.00 with interest to run from June 25, 1982 on the full amount at 9% per annum.

Third, plaintiffs ask that post-judgment interest be compounded annually. 28 U.S.C. §1961 in effect at the time the judgment was entered provided in part:

Interest shall be allowed on any money judgment in a civil case recovered in a district court Such interest shall be calculated from the date of the entry of the judgment, at the rate allowed by State law.

The relevant Virgin Islands statute, 11 V.I.C. §951, provides for an interest rate of 9% per annum, but does not provide for compounding of interest. The present version of §1961(b) does provide for compounding of interest. Therefore, defendant has noted the split of authority as to retroactive application of the "new" §1961. See Bonjorno v. Kaiser Aluminum & Chem. Corp., 865 F.2d 566 (3rd Cir. 1989) (citing cases). Plaintiffs argue that retroactivity does not matter, because even assuming that the "old" §1961 applies, annual compounding is still proper. They cite Vitex Manuf. Co., Ltd. v. Wheatley, 70 F.R.D. 588 (D.C.V.I. 1976), in which the court stated that the 9% post-judgment interest rate is to be compounded annually. Id. at 590. The Court finds this authority controlling, and thus the retroactivity question need not be addressed. Interest shall be compounded annually.

Fourth, plaintiffs seek prejudgment interest on the judgment, raising it for the first time on remand. The Ninth Circuit has reversed a sua sponte award of prejudgment interest as outside the scope of the mandate. Newhouse v. Robert's Ilima Tours, Inc., 708 F.2d 436 (9th Cir. 1983). This Court believes that the mere fact that the Tenth Circuit did not mention the issue does not preclude this Court's consideration.

Defendant argues that the issue has not been timely preserved by plaintiffs. Upon review, the Court agrees.

The Court entered judgment on June 25, 1982. By Order of September 10, 1984, the Court addressed various post-judgment motions, and on the same date the Court entered a revised judgment. Plaintiffs did not request an award of prejudgment interest. At the hearing on June 1, 1989, one of plaintiffs' counsel stated that it was his "recollection" that the Court intended that prejudgment interest be held in abeyance pending the outcome of appeal. No reference to the record has been made to support this recollection. In Osterneck v. Ernst & Whitney, 109 S.Ct. 987 (1989), the United States Supreme Court held that

a postjudgment motion for discretionary prejudgment interest involves the kind of reconsideration of matters encompassed within the merits of a judgment to which Rule 59(e) was intended to apply.

Id. at 992 (footnote omitted).

No such motion was made, and the Court concludes that the issue has been waived by plaintiffs. Prejudgment interest will be denied.

Plaintiffs also seek attorney fees in the amount of \$926,692.25, as well as prejudgment interest on any award of attorney fees. The defendant objects on the ground that plaintiffs only prevailed (partially) on one of three theories, and recovered

much less than they sought. Such is not a basis for reduction of fees in this case. See Hensley v. Eckerhart, 461 U.S. 424, 434-35 (1983). As the Court stated at the hearing, while plaintiffs have asked for a large amount of fees, much of this was necessitated by the tactics of defendant's trial counsel. Considering the conduct of this litigation, the Court cannot say that the requested fees should be substantially reduced. The Court finds that the fee application is adequately documented under Virgin Islands law, and that travel expenses were appropriate under the facts of this case. See Dr. Bernard Heller Foundation v. Lee, 847 F.2d 83, 89 (3rd Cir. 1988). The defendant has not objected to specific entries as unreasonable, and the Court has no basis for such a finding. Full fees will be awarded. However, the Court has found no authority for an award of prejudgment interest on fees. Cf. R.W.T. v. Dalton, 712 F.2d 1225, 1234 (8th Cir. 1983). This request is denied.

It is the Order of the Court that the Judgment is hereby amended as reflected above.

IT IS SO ORDERED this 20th day of October, 1989.


H. DALE COOK

Chief Judge, U. S. District Court

**IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA**

OCT 20 1989

HESS OIL VIRGIN ISLANDS CORP.,
et al.,

JACK J. COOK, CLERK
U.S. DISTRICT COURT

Plaintiffs,

vs.

No. 75-C-383-C

UOP, INC.,
a Delaware corporation,

Defendant.

JUDGMENT

This action came on for trial before the Court and a jury and the issues having been duly tried, the jury having rendered its verdict and the Court having determined all other issues,

It is Ordered and Adjudged that the plaintiffs recover of the defendant UOP, Inc. the sum of \$1,616,638.80 with post judgment interest at the rate of 9% per annum from June 25, 1982, compounded annually, and their costs of action in the amount of \$20,178.78, and the costs of appeal in the amount of \$802.30.

It is further Ordered and adjudged that plaintiffs be awarded attorney fees in the amount of \$926,692.25.

IT IS SO ORDERED this 20th day of October, 1989.


H. DALE COOK

Chief Judge, U. S. District Court

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

F I L E D

OCT 20 1989 *fw*

Jack C. Silver, Clerk
U.S. DISTRICT COURT

COLONIAL LIFE & ACCIDENT INSURANCE
COMPANY, a South Carolina corporation,

Plaintiff,

vs.

VERONA BARROWS, an individual,

Defendant.

Case No. 89-C-837 C /

AGREED ORDER TO REMAND

This matter came on for hearing on the joint motion of plaintiff Colonial Life & Accident Insurance Company ("Colonial") and defendant Verona Barrows ("Barrows") to remand this action to the District Court in and for Tulsa County, State of Oklahoma. The Court having reviewed the file, by the agreement of the parties and being fully advised in the premises, finds as follows:

1. On May 12, 1989, Colonial filed its Petition in the District Court in and for Tulsa County, Oklahoma, in Case No. CJ-89-02548 (the "State Court Action"). In the State Court Action, Colonial alleged seven separate causes of action including: (a) breaches of both written agreements with Colonial; (b) unfair and deceptive trade practices, (c) common law unfair competition, (d) conspiracy, (e) misappropriation of trade secrets and (f) tortious interference with contractual and business relations.
2. The Petition was removable as originally filed by Colonial.
3. On May 12, 1989, the Tulsa County District Court entered its Temporary Restraining Order in the State Court Action prohibiting Verona Barrows from engaging in

conduct that was unfairly competitive or in breach of her written agreements with Colonial.

4. On May 17, 1989, Barrows moved to vacate or modify the Temporary Restraining Order entered by the Court. On May 18, 1989, a full evidentiary hearing on Barrows' motion was held by the Court. At that evidentiary hearing, Colonial fully disclosed in open court that the damages it sought from Barrows were "at a minimum . . . \$120,000.00." This transcript is part of the Court's record in the State Court Action.

5. Based on this notice, the initial Petition, if not originally removable, became so on May 18, 1989, pursuant to 28 U.S.C. § 1446.

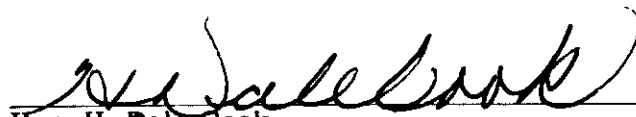
6. Defendant Barrows' Petition For Removal was not timely and, therefore, improvidently brought and should be remanded.

7. Plaintiff Colonial has incurred reasonable costs and attorneys' fees in the amount of \$2,000.00 that it should properly recover as against defendant Barrows.

IT IS THEREFORE ORDERED that plaintiff's Motion To Remand be and hereby is granted, and that this action is remanded to the District Court in and for Tulsa County, State of Oklahoma; and

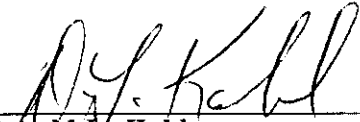
IT IS FURTHER ORDERED that defendant Barrows shall pay, within ten (10) days of service of this Order, the sum of Two Thousand Dollars (\$2,000.00) as reasonable costs and attorneys' fees incurred in this Court.

DATED THIS 20th day of October, 1989.


Hon. H. Dale Cook
Chief District Judge


APPROVED:

**HALL, ESTILL, HARDWICK, GABLE,
GOLDEN & NELSON, P.C.**

By 
Donald L. Kahl
Kevin Y. Litz
4100 Bank of Oklahoma Tower
One Williams Center
Tulsa, Oklahoma 74172
(918) 588-2700

**ATTORNEYS FOR PLAINTIFF COLONIAL
LIFE & ACCIDENT INSURANCE COMPANY**

MARSH & SHACKLETT

By 
Joseph M. Fears
100 W. Fifth St., Suite 606
Tulsa, Oklahoma 74103
(918) 587-0141

**ATTORNEYS FOR DEFENDANT
VERONA BARROWS**

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED

OCT 20 1989 *at*

ARTURO WANG,

Plaintiff,

vs.

WESTWOOD STABLES, INC.,
et al.,

Defendants.

Jack C. Silver, Clerk
U.S. DISTRICT COURT


No. 89-C-484-E ✓

ADMINISTRATIVE CLOSING ORDER

The Court has been advised by counsel that this action has been settled, or is in the process of being settled. Therefore it is not necessary that the action remain upon the calendar of the Court.

IT IS THEREFORE ORDERED that the Clerk administratively terminate this action in his records, without prejudice to the rights of the parties to reopen the proceedings for good cause shown for the entry of any stipulation, order, judgment, or for any other purpose required to obtain a final determination of the litigation. The Court retains complete jurisdiction to vacate this order and to reopen the action upon cause shown. The parties are directed to file stipulations and a proposed order for dismissal within twenty (20) days.

ORDERED this 19th day of October, 1989.


JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

FILED

IN THE UNITED STATES DISTRICT COURT FOR THE OCT 20 1989
NORTHERN DISTRICT OF OKLAHOMA

W. HOWARD FRY,

Petitioner,

v.

JACK COWLEY, WARDEN,
JOE HARP CORRECTION CENTER,

Respondent.

Jack C. Silver, Clerk
U.S. DISTRICT COURT

89-C-273-E ✓

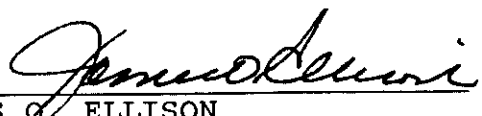
ORDER

The court has for consideration the Report and Recommendation of the Magistrate filed August 23, 1989, in which the Magistrate recommended that petitioner's application for a writ of habeas corpus be dismissed as frivolous. No exceptions or objections have been filed and the time for filing such exceptions or objections has expired.

After careful consideration of the record and the issues, the court has concluded that the Report and Recommendation of the Magistrate should be and hereby is affirmed.

It is therefore Ordered that petitioner's application for a writ of habeas corpus under 28 U.S.C. § 2254 is dismissed pursuant to 28 U.S.C. § 1915(d) as frivolous.

Dated this 19th day of September, 1989.


JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	
)	
THEODORE HARRISON,)	
)	
Defendant.)	CIVIL ACTION NO. 89-C-511-B

ORDER OF DISMISSAL

Now on this 20th day of October, 1989, it appears that the Defendant in the captioned case has not been located within the Northern District of Oklahoma, and therefore attempts to serve him have been unsuccessful.

IT IS THEREFORE ORDERED that the Complaint against Defendant, Theodore Harrison, be and is dismissed without prejudice.

S/ THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

FILED

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

OCT 20 1989

JACK C. SILVER, CLERK
U.S. DISTRICT COURT

IN RE:

VERNON RAE TWYMAN, JR.
a/k/a VERNON RAY TWYMAN, JR.
a/k/a VERNON RAY TWYMAN,
SS #566-19-5158,

Debtor,

J. WAYNE PHILPOT and
WAYNE LEASING, INC.,

Plaintiffs,

vs.

No. 89-C-787-C

VERNON RAY TWYMAN, JR.,

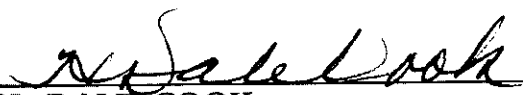
Defendant.

ORDER

Before the Court is the defendant's application to dismiss its appeal without prejudice. On September 22, 1989 defendant filed a notice of appeal and a motion for leave to appeal from an order of the bankruptcy court. Defendant now asks that its appeal be dismissed, because defendant has concluded that it is premature. No objection by plaintiffs has been filed.

It is the Order of the Court that the application of defendant Vernon Ray Twyman, Jr. to dismiss appeal without prejudice is hereby GRANTED. The motion for leave to appeal is also dismissed without prejudice.

IT IS SO ORDERED this 20 day of October, 1989.


H. DALE COOK
Chief Judge, U. S. District Court

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

UNITED STATES OF AMERICA,

Plaintiff,

v.

SHERMAN R. LEENSVAART,

Defendant.

OCT 20 1989

Jack C. Silver, Clerk
U.S. DISTRICT COURT

Civil Action No. 89-C-379-E

DEFAULT JUDGMENT

This matter comes on for consideration this 18 day of October, 1989, the Plaintiff appearing by Tony M. Graham, United States Attorney for the Northern District of Oklahoma, through Catherine J. Depew, Assistant United States Attorney, and the Defendant, Sherman R. Leensvaart, appearing not.

The Court being fully advised and having examined the court file finds that Defendant, Sherman R. Leensvaart, was served with Summons and Complaint on May 10, 1989. The time within which the Defendant could have answered or otherwise moved as to the Complaint has expired and has not been extended. The Defendant has not answered or otherwise moved, and default has been entered by the Clerk of this Court. Plaintiff is entitled to Judgment as a matter of law.

IT IS THEREFORE ORDERED, ADJUDGED, and DECREED that the Plaintiff have and recover judgment against the Defendant, Sherman R. Leensvaart, for the principal amount of \$18,272.46, plus accrued interest of \$2,907.66 as of January 31, 1989, plus interest thereafter at the rate of 4 percent per annum until judgment, plus

interest thereafter at the current legal rate of 8 1/2 percent per annum until paid, plus costs of this action.

/s/ JAMES O. BURSON

United States District Judge

ssg

FILED

OCT 19 1989

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA Jack C. Silver, Clerk
U.S. DISTRICT COURT

THE CIT GROUP/FACTORING)
MEINHARD-COMMERCIAL WESTERN, INC.,)

Plaintiff,)

vs.)

WALDENBOOKS,)

Defendant.)


Case No. 88-C-1656-E

STIPULATION OF DISMISSAL

The parties hereby stipulate to the dismissal of this
action, such dismissal to be with prejudice.

DOERNER, STUART, SAUNDERS,
DANIEL & ANDERSON

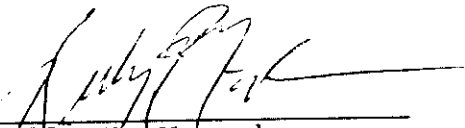
By


James P. McCann
Jon E. Brightmire
1000 Atlas Life Building
Tulsa, Oklahoma 74103
(918) 582-1211

Attorneys for Plaintiff

BARROW, GADDIS, GRIFFITH
& GRIMM

By


Kelly F. Monaghan
Suite 300
610 S. Main Street
Tulsa, OK 74119-1224
(918) 584-1600

Attorneys for Defendant

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED

OCT 19 1989 *dt*

WILLIAM C. BESS,
Plaintiff,

vs.

FLIGHTSAFETY INTERNATIONAL,
Defendant.

No. 88-C-1056-E ✓

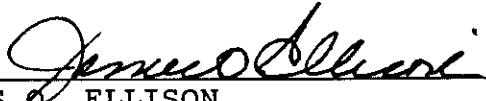
Jack C. Silver, Clerk
U.S. DISTRICT COURT

ADMINISTRATIVE CLOSING ORDER

The Court has been advised by counsel that this action has been settled, or is in the process of being settled. Therefore it is not necessary that the action remain upon the calendar of the Court.

IT IS THEREFORE ORDERED that the Clerk administratively terminate this action in his records, without prejudice to the rights of the parties to reopen the proceedings for good cause shown for the entry of any stipulation, order, judgment, or for any other purpose required to obtain a final determination of the litigation. The Court retains complete jurisdiction to vacate this order and to reopen the action upon cause shown within thirty (30) days that settlement has not been completed and further litigation is necessary.

ORDERED this 18th day of October, 1989.


JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

FILED

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

Jack C. Silver, Clerk
U.S. DISTRICT COURT

JERRY LUTZ,

Plaintiff,

vs.

THE FIRST NATIONAL BANK
& TRUST COMPANY OF TULSA,
a national banking
association,

Defendant and
Third-party Plaintiff,

vs.

SHEARSON LEHMAN HUTTON,
INC. and PETRO-D
CORPORATION,

Third-party Defendants.

Case No. 88-C-588-B

ORDER OF DISMISSAL

Upon the joint Stipulation of the Plaintiff, the Defendant, and both Third-party Defendants, the Court hereby Orders that this action be dismissed with prejudice to the claims asserted herein; that the Plaintiff and Petro-D Corporation shall withdraw with prejudice their claims asserted before the American Arbitration Association pursuant to this Court's order; and that each party shall bear his/its own costs and attorneys' fees incurred herein and in the said arbitration case.

Entered Oct. 19, 1989.

57 THOMAS R. BRETT.

Thomas R. Brett
United States District Judge

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

RIMER PLUMBING, INC.,
an Oklahoma corporation,

Plaintiff,

vs.

MARATHON PETROLEUM COMPANY,

Defendant.

F I L E D

OCT 19 1989

No. 89-C-032-E

Jack C. Silver, Clerk
U.S. DISTRICT COURT

ORDER OF DISMISSAL WITH PREJUDICE

There comes before this Court the Joint Stipulation for Order of Dismissal with Prejudice filed by the parties in the above-captioned matter. The Court, being fully advised in this matter, and being further advised that the parties have settled all claims in relation thereto, finds that an Order of Dismissal with Prejudice should be entered.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the above-captioned action and each and every claim for relief asserted therein be and are hereby dismissed with prejudice to the bringing of a future action thereon, each party to bear its own costs and attorneys' fees.

S/ JAMES O. ELLISON

United States District Court Judge

FILED

Jack C. Silver, Clerk
U.S. DISTRICT COURT

89-C-188-B

ORDER

Petitioner filed an incomplete Petition for Writ of Habeas Corpus on March 9, 1989. On April 12, 1989, Petitioner was ordered to answer interrogatories propounded by the Court to clarify his claim for habeas relief. Petitioner has now filed answers to the Court's interrogatories and the Respondent has responded with a Motion to Dismiss for Failure to Exhaust State Remedies.

Petitioner was originally charged in Oklahoma County District Court, Case No. CRF-80-3672, and eventually sent to a state mental hospital. Petitioner now seeks federal habeas relief, alleging he has been held against his will for nine years. Specifically, Mercer alleges:

Ground One: I think Judge Cook is predjuce (sic) against me. He sentenced me. [A]nd my lawyer told me the first time I went to court he would hold me 7 or 8 years. He has held me in the hospital although The Doctors have repeatedly told him I am sane and not a danger to anyone or myself.

In an attempt to properly posture Mercer's claim, the Magistrate propounded several interrogatories to Petitioner. Interrogatory No. 4 asked: "You have indicated that you have

appealed four times. List for each appeal the case number, the date of decision, and the court name." Mercer answered listing the following information: "CRF 80-3672, July 2, 1987, OKC; PMH 81-204, July 31, 1981, OKC; PMH 81-204, August 3, 1983, OKC; C-88-188, August 16, 1988, Vinita." Respondent informs the Court that Mercer has never presented his claims to Oklahoma's highest court in these cases or in any other cases that it can find. Instead, the case numbers Mercer refers to are, respectively, his original criminal case, his mental health court case, and a civil case filed in Craig County, Oklahoma.

It further appears from the documents attached to Respondent's motion that Mercer was originally charged with Murder in the First Degree, but found Not Guilty by Reason of Insanity, and placed in Central State Hospital. The most recent annual report to the court (dated March 17, 1989) indicates that he was transferred to Eastern State Hospital on March 21, 1988 to be placed in "a more secure environment".

Because Respondent urged the Petition be dismissed on grounds of non-exhaustion, the Magistrate propounded a further interrogatory to Respondent:

Q. Under Oklahoma laws, by what method(s) may Petitioner test in Oklahoma's highest court the legality of his current detention?


The Respondent answered, inter alia,

Under the Mental Health Law of 1986, Petitioner may apply to the Court of Criminal Appeals for a writ of habeas corpus for release from confinement.

(Citing 43A Supp. 1986, §1-108 and 12 O.S. 1981, §1333).

In view of the responses to the Magistrate's interrogatories by both parties, it appears Petitioner has not yet presented his claim to Oklahoma's highest court, i.e.: Application for Writ of Habeas Corpus made to the Oklahoma Court of Criminal Appeal. As the Respondent Attorney General for the State of Oklahoma has informed this Court that such a state remedy is yet available to Petitioner, the Court finds Petitioner has failed to exhaust his remedies as required by 28 U.S.C. §2254. See also, Duckworth v. Serrano, 454 U.S. 1, 3 (1981).

Therefore, it is ordered that Mercer's Petition for A Writ of Habeas Corpus be dismissed, without prejudice, there being yet an avenue for application for said Writ to the Court of Criminal Appeals.


THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FRED EDWARD MASSINGALE,
Petitioner,
v.
JAMES L. SAFFLE, WARDEN,
Respondent.

89-C-481-B ✓

JACK C. SILVER, Clerk
U.S. DISTRICT COURT

ORDER TO TRANSFER CAUSE

The Court having examined the Petition for Writ of Habeas Corpus which the Petitioner has filed finds as follows:

(1) That the Petitioner is presently a prisoner in the custody of the Respondents at the Oklahoma State Penitentiary, at McAlester, Oklahoma, which is located within the territorial jurisdiction of the Eastern District of Oklahoma.

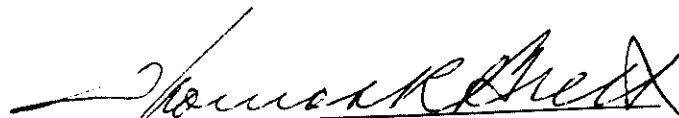
(2) That the Petitioner demands his release from such custody and as grounds therefore alleges he is being deprived of his liberty in violation of rights under the Constitution of the United States.

(3) In the furtherance of justice this case should be transferred to the United States District for the Eastern District of Oklahoma. IT IS THEREFORE ORDERED:

(1) Pursuant to the authority contained in 28 U.S.C. §2241(d) and in the exercise of discretion allocated to the Court, this cause is hereby transferred to the United States District Court for the Eastern District of Oklahoma for all further proceedings.

(2) The Clerk of this Court shall mail a copy of this Order to the Petitioner.

Dated this 18th day of Oct., 1989.

A handwritten signature in dark ink, appearing to read "Thomas R. Brett", is written over a horizontal line.

THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

JACK O. GLENN
U.S. DISTRICT COURT

NATIONAL FOOTBALL SCOUTING,
INC., HARRY W. BUFFINGTON and
LESLIE MILLER,

Plaintiffs,

vs.

CONTINENTAL ASSURANCE COMPANY,
et al.,

Defendants.

No. 86-C-843-C

(Consolidated)

SUPERIOR HARD SURFACING CO.,
INC., and HAROLD WEST,

Plaintiffs,

vs.

CONTINENTAL ASSURANCE COMPANY,
et al.,

Defendants.

No. 87-C-588-C

ORDER

Now before the Court for its consideration is the objection of defendant Continental Assurance Company (CAC) to the Report and Recommendation of the United States Magistrate filed on June 20, 1989. The Magistrate recommended that the pending cross-motions

180

for summary judgment be denied. Plaintiffs have not objected to the Report.

In this action, plaintiffs seek recovery of retirement fund contributions in the amount of \$513,933.78, alleging violations of the Employee Retirement Income Security Act (ERISA), 29 U.S.C. §§1001-1461. CAC writes group insurance and annuity contracts for employee welfare and pension plans, as well as other types of insurance. William C. Morton (Morton) was an insurance agent for CAC. He also administered pension plans through his own company. To assist his pension clients, Morton contracted with CAC to pool the funds of certain pension plans to secure a higher rate of return. This is represented by Group Annuity Contract, GP-9395. Morton described this as an Immediate Participation Guarantee (IPG) contract, under which a pension plan is guaranteed a return of principal and significant minimum interest.

It is apparently undisputed that Morton embezzled funds from the pension plans. Plaintiffs seek to impose liability for the loss on CAC under the doctrine of respondeat superior, which can be a source of liability in ERISA cases. Amer. Fed. of Unions v. Equitable Life Assur. Soc., 841 F.2d 658, 665 (5th Cir. 1988).¹

¹An action may be brought against a fiduciary under 29 U.S.C. §1109(a). There is a split of authority as to whether non-fiduciaries may be liable under that provision. See Nieto v. Ecker, 845 F.2d 868 (9th Cir. 1988) (citing cases). Those cases which have held non-fiduciaries liable require a showing of knowing participation with a fiduciary in a breach of trust. See, e.g., Donovan v. Schmoutey, 592 F.Supp. 1361, 1395-96 (D.Nev. 1984). Plaintiffs have not alleged knowing participation by CAC in Morton's embezzlement. Therefore, CAC must be found to be a fiduciary for liability to attach. In the Complaint, plaintiffs also allege that CAC is a "party in interest" under 29 U.S.C. §1002(14), but have made no additional argument on the point regarding the present motions.

The primary issue in this case is therefore agency. CAC urges the entry of judgment in its favor because (1) Morton was not its agent, and (2) even if he was, Morton was also plaintiffs' agent. The party who relies on agency has the burden of proving it. Atchison, Topeka and Santa Fe Railway Co. v Bouziden, 307 F.2d 230, 233 (10th Cir. 1962).

Under general rules of agency law, principals are liable for the acts of their agents when their agents act within the scope of their actual or apparent authority. Tryco Trucking Co. v. Belk Stores Services, 634 F.Supp. 1327, 1334 (W.D.N.C. 1986). Actual authority is the authority that the principal expressly or implicitly gave the agent. United States v. Martinez, 613 F.2d 473, 481 (3rd Cir. 1980). Apparent authority results from manifestations by the principal to the third party that another person is his agent. Wheeler v. Puritan Ins. Co., 720 P.2d 729, 731 (Okla. 1986).

The agency contract between Morton and CAC provided:

The General Agent appointment shall be for the purpose of soliciting and processing applications for insurance and annuities on behalf of the Company.

No language in the contract allows Morton to administer pension plans on behalf of CAC. Express authority is absent. As for apparent authority, plaintiffs have presented no evidence of any representations by CAC, as opposed to Morton, that Morton was CAC's agent for investment purposes. Agency cannot be established by acts or declarations of the alleged agent. Atchison, Topeka,

supra, 307 F.2d at 233. The law imposes a duty to exercise reasonable care to ascertain the authority of an agent and to investigate facts that would put a reasonable man on inquiry. DeBoer Constr., Inc. v. Reliance Ins. Co., 540 F.2d 486, 492 (10th Cir. 1976), cert. denied, 429 U.S. 1041 (1977). There is no evidence of any investigation by plaintiffs herein. The Court must conclude that Morton was not CAC's agent for investment purposes.

Even if the Court were to find such an agency relationship, plaintiffs would still be barred from recovery. The pension plan trustees executed a Power of Attorney which gave Morton power to act in their "name, place and stead" in investing plan assets "for such ... purposes as the Trustees designate." Thus, as regards handling of plan assets, Morton was the agent of the plans. One principal injured by the defalcations of a common agent cannot sue the other principal. See, e.g., Cerniglia v. Pretty, 674 F.Supp. 1167, 1169 (D.Md. 1987). On this ground as well, defendants are entitled to judgment.

The magistrate concluded that the Power of Attorney constituted an exculpatory instrument, violative of 29 U.S.C. §1110(a). That section provides in pertinent part that

any provision in an agreement or instrument which purports to relieve a fiduciary from responsibility or liability for any responsibility, obligation, or duty under this part shall be void as against public policy.

The Court disagrees. The Power of Attorney makes no reference to CAC and does not purport to relive CAC from liability. Rather, the document defines the relationship between Morton and the plans.

This Court thus agrees with the ruling made by Judge Morris Arnold in Board of Trustees of Cedar Rapids Pediatric Clinic Pension Plan v. Continental Assurance Company, W.D.Ark., Case No. 86-5192, wherein Judge Arnold granted a directed verdict for the defendants on similar claims. Plaintiffs herein provided this Court with a copy of the transcript which was not available to the Magistrate.

The Magistrate also found that any embezzlement by Morton was outside the specific scope of the document. However, the document provides that Morton's authority was "to do any act, or thing whatsoever with such assets ... for the purpose of applying such funds under Continental Assurance Company Group Annuity Policy GP-9395 ...") It is not necessary for a principal to expressly authorize embezzlement for embezzlement to be within the scope of authority. As defendants point out, if such were the rule this case should be dismissed, because there has been no allegation that CAC authorized embezzlement by Morton. The Court must also disagree with the Magistrate's conclusion that the Power of Attorney is ambiguous. The analysis above provides an additional reason for granting judgment in defendants' favor.²

Where the facts relied upon to establish the existence of the agency are undisputed and conflicting inferences cannot be drawn

²CAC also argues that it is not a fiduciary by reason of 29 U.S.C. §1101(b)(2)(B), which "provides a safe harbor to insurance companies that sell standard annuity contracts to cover the anticipated needs of the relevant pension plan." Jacobson v. John Hancock Mut. Life Ins. Co., 655 F.Supp. 1290, 1295 (D.Conn. 1987). However, if the Court's agency analysis is incorrect, a question of fact would exist as to CAC's control over the funds. cf. Peoria Union Stock Yards Co. v. Penn Mut. Life Ins., 698 F.2d 320, 327 (7th Cir. 1983). Judgment will therefore not be granted on this basis.

therefrom, the question of whether an agency exists is one of law for the court. Keel v. Titan Const. Corp., 639 P.2d 1228, 1230 (Okla. 1982). The Court has concluded that this is such a case.

It is the Order of the Court that the motions of the defendants for summary judgment are hereby GRANTED.

IT IS SO ORDERED this 18th day of October, 1989.


H. DALE COOK

Chief Judge, U. S. District Court

JWN/ta
10/04/89

FILED

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

OCT 17 1989

Jack C. Silver, Clerk
U.S. DISTRICT COURT

HOWARD RICHARD GREEN, and
HELEN M. GREEN, Plaintiff's Spouse,

Plaintiffs,

vs.

ANCHOR PACKING COMPANY, et al.,

Defendants.

No. 88-C-706-C ✓

STIPULATED JOINT MOTION FOR,
AND ORDER OF, DISMISSAL
WITHOUT PREJUDICE AS TO DEFENDANT
H. K. PORTER COMPANY, INC.

Fed.R.Civ.P. 41 (a) (2)

M O T I O N

Plaintiffs and Defendant H. K. Porter Company, Inc.,
jointly move this Court for an Order of Dismissal Without Preju-
dice of the above-styled action.

O R D E R

Upon the above and foregoing Joint and Stipulation Motion
for Order of Dismissal Without Prejudice, the above-styled action
is hereby dismissed without prejudice as to H. K. Porter Company,
Inc., each party to bear its own costs.

FILED


OCT 18 1989

Jack C. Silver, Clerk
U.S. DISTRICT COURT



H. DALE COOK
U.S. DISTRICT COURT JUDGE

APPROVED:

LAW OFFICES OF
JOHN W. NORMAN INCORPORATED
ATTORNEYS FOR PLAINTIFFS


By: 
JOHN W. NORMAN - OBA #6699
GINA L. HENDRYX - OBA #10330
Renaissance Centre East
127 N.W. 10th
Oklahoma City, OK 73103-4903
405/272-0200

PRAY, WALKER, JACKMAN, WILLIAMSON & MARLAR
ATTORNEYS FOR DEFENDANT H. K. PORTER COMPANY

By: 
JOHN F. MCCORMICK, JR.
900 Oneok Plaza
Tulsa, OK 74103
918/584-4136 (O)
918/584-1446 (F)

-AND-

INGE, TWITTY, DUFFY, PRINCE & MCKEAN

By: 
GREY REDDITT
P.O. Box 1109
Mobile, AL 36633
205/433-5441 (O)
205/431-0159 (F)

JWN/ta
10/05/89

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

DENNIS LLOYD EARP, and
PEGGY EARP, Plaintiff's Spouse,

Plaintiffs,

vs.

ANCHOR PACKING COMPANY, et al.,

Defendants.

No. 88-C-704-B ✓

STIPULATED JOINT MOTION FOR,
AND ORDER OF, DISMISSAL
WITHOUT PREJUDICE AS TO DEFENDANT
ANCHOR PACKING COMPANY

Fed.R.Civ.P. 41(a)(2)

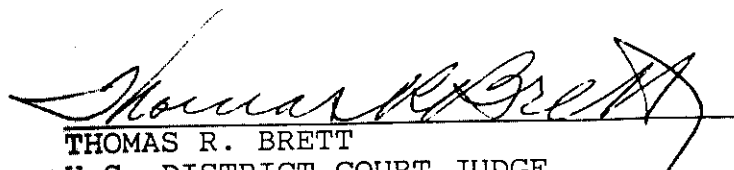
M O T I O N

Plaintiffs and Defendant Anchor Packing Company jointly
move this Court for an Order of Dismissal Without Prejudice of
the above-styled action.

FILED
OCT 18 1989
Jack C. Silver, Clerk
U.S. DISTRICT COURT

O R D E R

Upon the above and foregoing Joint and Stipulated Motion
for Order of Dismissal Without Prejudice, the above-styled action
is hereby dismissed without prejudice as to Anchor Packing Com-
pany, each party to bear its own costs.


THOMAS R. BRETT
U.S. DISTRICT COURT JUDGE

APPROVED:

LAW OFFICES OF
JOHN W. NORMAN INCORPORATED
ATTORNEYS FOR PLAINTIFFS

By: 

JOHN W. NORMAN - OBA #6699
GINA L. HENDRYX - OBA #10330
Renaissance Centre East
127 N.W. 10th
Oklahoma City, OK 73103-4903
405/272-0200

RHODES, HIERONYMOS, JONES, TUCKER & GABLE
ATTORNEYS FOR DEFENDANT ANCHOR PACKING COMPANY

By: 

CHRIS L. RHODES
2800 Fourth National Bank Bldg.
Tulsa, OK 74119
918/582-1173

GLH/ta
10/11/89

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED
OCT 16 1989
U.S. DISTRICT COURT

HOWARD RICHARD GREEN, and
HELEN M. GREEN, Plaintiff's Spouse,
Plaintiffs,

vs.

ANCHOR PACKING COMPANY, et al.,
Defendants.

No. 88-C-706-C ✓

STIPULATED JOINT MOTION FOR,
AND ORDER OF, DISMISSAL
WITHOUT PREJUDICE AS TO DEFENDANT
SOUTHERN TALC COMPANY


Fed.R.Civ.P. 41(a)(2)

M O T I O N

Plaintiffs and Defendant Southern Talc Company jointly
move this Court for an Order of Dismissal Without Prejudice of
the above-styled action.

O R D E R

Upon the above and foregoing Joint and Stipulated Motion
for Order of Dismissal Without Prejudice, the above-styled action
is hereby dismissed without prejudice as to Southern Talc Com-
pany, each party to bear its own costs.


H. DALE COOK
U.S. DISTRICT COURT JUDGE

10-18-89

142

APPROVED:

LAW OFFICES OF
JOHN W. NORMAN INCORPORATED
ATTORNEYS FOR PLAINTIFF

By: 

JOHN W. NORMAN - OBA #6699
GINA L. HENDRYX - OBA #10330
Renaissance Centre East
127 N.W. 10th
Oklahoma City, OK 73103-4903
405/272-0200

ROGERS, HONN & ASSOCIATES
ATTORNEYS FOR SOUTHERN TALC COMPANY

By: 

RICHARD C. HONN
26 Oaks Office Park
2417 E. Skelly Drive
Tulsa, OK 74105

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

COMMUNITY FEDERAL SAVINGS
AND LOAN ASSOCIATION,

Plaintiff,

vs.

MANHATTAN LEASING, INC.,
et al.,

Defendants.

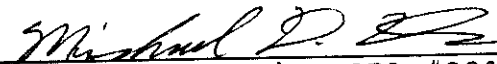
Case No. 88-C-1333-E

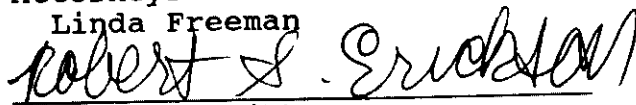
JOINT STIPULATION OF DISMISSAL

COME NOW the Plaintiff, Local America Bank, and the Defendant Linda Freeman pursuant to and in accordance with Federal Rules of Civil Procedure, Rule 41 and hereby dismiss all claims each has asserted against the other in the above styled matter.

Respectfully submitted,

DOYLE & HARRIS


Steven M. Harris, OBA #3913
Michael D. Davis, OBA #11282
P.O. Box 1679
Tulsa, OK 74101
(918) 743-1276
Attorneys for Defendant
Linda Freeman


Michael J. Gibbons
Robert S. Erickson
3800 First National Tower
Tulsa, OK 74103
Jones, Givens, et. al.
Attorneys for Plaintiff,
Local America Bank

CERTIFICATE OF MAILING

I do hereby certify that on the 18th day of October, 1989, I caused to be mailed a true and correct copy of the above and foregoing instrument to the following parties with proper postage fully prepaid thereon.

Cynthia D. Hess
7666 East 61st Street
Suite 251
Tulsa, OK 74133

Stephen M. Harris
Michael D. Davis
Doyle & Harris
P.O. Box 1679
Tulsa, Oklahoma 74101

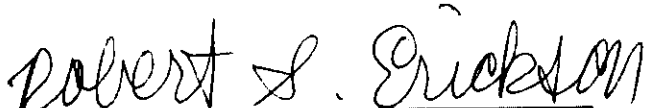
J. Schaad Titus
Boone, Smith, Davis & Hurst
100 West Fifth Street
Suite 500
Tulsa, OK 74103

Robert S. Erickson
Jones, Givens, et. al.
3800 First National Tower
Tulsa, OK 74103

State of Oklahoma Ex Rel
Oklahoma Tax Commission
2501 Lincoln Boulevard
Oklahoma City, OK 73194

Janie A. Simms
John Joseph Snider
John B. Heatly
Barbara G. Bowersox
Fellers, Snider et. al.
2400 First National Center
Oklahoma City, OK 73102

Linda A. Freeman
6798 Timberlane Road
Tulsa, OK 74136



Steven M. Harris
Michael D. Davis
Robert S. ERICKSON

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

OCT 18 1986

JACK C. LYNCH, CLERK
U.S. DISTRICT COURT

NATIONAL FOOTBALL SCOUTING,
INC., HARRY W. BUFFINGTON and
LESLIE MILLER,

Plaintiffs,

vs.

CONTINENTAL ASSURANCE COMPANY,
et al.,

Defendants.

No. 86-C-843-C ✓

(Consolidated)

SUPERIOR HARD SURFACING CO.,
INC., and HAROLD WEST,

Plaintiffs,

vs.

CONTINENTAL ASSURANCE COMPANY,
et al.,

Defendants.

No. 87-C-588-C

J U D G M E N T

This matter came on for consideration of the motions for summary judgment of defendants. The issues having been duly considered and a decision having been duly rendered in accordance with the Order filed contemporaneously herewith,

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that judgment is hereby entered for defendants and against plaintiffs, and that plaintiffs take nothing by way of this action.

IT IS SO ORDERED this 18th day of October, 1989.


H. DALE COOK

Chief Judge, U. S. District Court

FILED

Jack C. Silver, Clerk
U.S. DISTRICT COURT

Plaintiff,

89-C-270-C

Defendants.

¹ "Docket numbers" refer to numerical designations assigned sequentially to each pleading, motion or order or other filing and are included for purposes of record keeping only. "Docket numbers" have no independent legal significance and are to be used in conjunction with the docket sheet prepared and maintained by the United States Court Clerk, Northern District of Oklahoma.

draft was "payment in full settlement of all claims for damages to property and for bodily injury whether known or unknown, which payee claims against any insured under the policy shown on the face hereof, or their respective successors in interest, arising out of an accident which occurred on or about the date shown".

Over a year later Plaintiff filed suit in state court for bodily injury resulting from the accident. The amended petition alleged that Defendants committed a fraud on Plaintiff when the draft with the release was presented and maliciously prosecuted a defense in the state court action which it knew was fraudulent. That defense was the signing of the release. The suit was removed to federal court, and Defendants now seek summary judgment, claiming that the statute of limitations has run on Plaintiff's fraud claim, that there is no evidence of fraud because the release was clearly stamped on the back of the draft Plaintiff signed, and that no malicious prosecution occurred, as no case was filed and no legal process abused.

The Supreme Court addressed the issue of the movant's burden in a summary judgment motion in Celotex v. Catrett, 477 U.S. 317, 106 S.Ct. 2548 91 L.Ed.2d 265, (1986), and the applicable standard of proof in Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 106 S.Ct. 2505, 91 L.Ed.2d 202 (1986). The Celotex Court held that the "plain language of Rule 56(c) [Fed.R.Civ.P.] mandates the entry of summary judgment, after adequate time for discovery and upon motion, against a party who fails to make a showing sufficient to establish the existence of an element essential to that party's

case, and on which that party will bear the burden of proof at trial". Celotex, at 2553. According to Celotex, if there is a complete failure of proof concerning an essential element of the non-movant's case, there can be no genuine issue of material fact because all other facts are necessarily rendered immaterial. Id.

The quantum of evidence necessary for the non-moving party to survive summary judgment was addressed in Anderson, supra, wherein the Court explained that Fed.R.Civ.P. 56(e) provides that a party opposing a properly supported motion for summary judgment may not rest upon mere allegation or denials of his pleading, but must set forth specific facts showing that there is a genuine issue of material fact for trial. Anderson, at 2514. The Court held that the Plaintiff must present affirmative evidence in order to defeat a properly supported motion for summary judgment. Id. In this regard, the Court stated that "the mere existence of a scintilla of evidence in support of the Plaintiff's position will be insufficient; there must be evidence on which the jury could reasonably find for the Plaintiff". Id. at 2512.

The elements that must be alleged to state a claim for common law fraud are listed in the case of D & H Co. v. Shultz, 579 P.2d 821, 824 (Okla. 1978):

that the defendant made a material misrepresentation that was false, that he knew when he made the representation that it was false, or that it was made recklessly without any knowledge of its truth and made as a positive assertion, and that he made it with the intention that it should be acted upon by plaintiff, and that plaintiff acted in reliance upon it and thereby suffered injury.

See also, Ramsey v. Fowler, 308 P.2d 654, 656 (Okla. 1957).

The Magistrate notes that the parties have stipulated that there is no evidence in the record before the Magistrate of oral misrepresentations made by Defendants to Plaintiff. Evidence in the record clearly shows that the release stamp had been placed on the draft by the time it was presented to Plaintiff's bank for payment. The only issue is whether the stamped release was legible. If it was legible, Plaintiff had notice of the release, and would be bound by it. If it was not legible, then the release is voidable because Plaintiff could not comprehend its legal effect. See, Taylor v. Beech Aircraft Corp., 407 F.Supp. 69, 71 (W.D. Okla. 1976).

The Magistrate finds that the release itself does not include any material misrepresentations. The Magistrate concludes from the language of the release that a bodily injury release was contemplated by State Farm, and there was no mutual mistake. At best, the evidence may show a unilateral mistake by Plaintiff. Consideration for the signing of the release was sufficient, insofar as Defendant State Farm had no obligation to settle Plaintiff's claim prior to judgment. Early settlement of the property damage claim is adequate consideration for a universal release, especially as Plaintiff represented to the insurance company that there were no personal injuries involved. (See, "Report of Accident and Claim", Exhibit 1 in Support of State Farm Motions, where Plaintiff answered "No" to the question "was anyone injured?")

The elements of a malicious prosecution action presented in

Lindsey v. Dayton-Hudson Corp., 592 F.2d 118, 1124 (10th Cir. 1979), are:

1. commencement of an action against the plaintiff,
2. a bona fide termination thereof in favor of the plaintiff,
3. the absence of probable cause,
4. the presence of malice, and
5. damages to the plaintiff.

Plaintiff has failed to present any evidence whatsoever to establish the first four elements of a malicious prosecution cause of action, and such claim should therefore be dismissed. Likewise, Plaintiff has presented no legal authorities at all to support her verbalized claim that the reliance of Defendants on the release in question constitutes abuse of process. If Plaintiff's pleadings can be construed to state a claim for abuse of process, such claim should be dismissed.

Therefore, the Magistrate finds that Plaintiff has not met her burden of showing essential elements of her fraud and malicious prosecution claims, and has presented no legal authority at all which would even arguably establish a cause of action for abuse of process under these circumstances. The Motion to Dismiss and Alternative Motion for Summary Judgment by State Farm and the Defendants' Motion to Dismiss/Motion for Partial Summary Judgment should be granted as to Plaintiff's claims of fraud, abuse of process, and malicious prosecution. Plaintiff's written application to amend her complaint should be granted, with the

restriction that she bring only a claim to rescind, reform, or otherwise set aside the release because it was illegible. The amended complaint is due within twenty (20) days of this Order.

SO ORDERED THIS 17th day of October, 1989.


JOHN LEO WAGNER
UNITED STATES MAGISTRATE

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED

OCT 17 1989

GRETA MCKELLIPS, et al.,)
)
 Plaintiffs,)
)
vs.)
)
ST. FRANCIS HOSPITAL, et al.,)
)
 Defendants.)


No. 83-C-605-~~U.S.~~ Jack C. Silver, Clerk
DISTRICT COURT

JUDGMENT

This action came on for jury trial before the Court, Honorable James O. Ellison, District Judge, presiding, and the issues having been duly tried and the jury having rendered its verdict,

IT IS THEREFORE ORDERED that the Plaintiffs take nothing from the Defendants, that the action be dismissed on the merits, and that the Defendants recover of the Plaintiffs their costs of action.

ORDERED this 16th day of October, 1989.


JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

OCT 17 1988

BERTHA SUE FISHER,

Plaintiff,

vs.

THE CIRCLE K CORPORATION,

Defendant.

)
)
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)

JACK C. S. JONES, CLERK
U.S. DISTRICT COURT


Case No. 88-C-1415-E

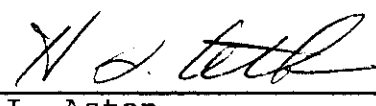
JOINT STIPULATION OF DISMISSAL WITH PREJUDICE

COME NOW the Plaintiff, BERTHA SUE FISHER, and the Defendant, THE CIRCLE K CORPORATION, and pursuant to Rule 41(a)(1) of the Federal Rules of Civil Procedure, dismiss, with prejudice, the above styled cause of action.

ATTORNEYS FOR DEFENDANT,
THE CIRCLE K CORPORATION

ATTORNEY FOR PLAINTIFF,
BERTHA SUE FISHER


D. Kevin Ikenberry
McCORMICK, ANDREW & CLARK
A Professional Corporation
Suite 100, Tulsa Union Depot
111 East First Street
Tulsa, Oklahoma 74103
(918) 583-1111


H. I. Aston
Bryan Alred
3242 East 30th Place
Tulsa, Oklahoma 74114


Bertha Sue Fisher

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

F I L E D

OCT 17 1989 *OK*

ANTHONY RAY JONES, et al,
Plaintiffs,

v.

BOARD OF COUNTY COMMISSIONERS
OF TULSA COUNTY, OKLAHOMA,
et al,

Defendants.

Jack C. Silver, Clerk
U.S. DISTRICT COURT

88-C-1448-E ✓

ORDER

The Court has for consideration the Report and Recommendation of the United States Magistrate filed September 18, 1989 in which the Magistrate recommended that the Defendants' motion to dismiss should be denied and their motion for summary judgment should be granted as to defendant Board of County Commissioners of Tulsa County, Oklahoma, the Sheriff of Tulsa County, Oklahoma, defendant deputies as to §§ 1985 and 1986 claims, and Mrs. Jones' claim, and denied as to defendant deputies for claims of violations of 42 U.S.C. §§ 1981 and 1983.


No exceptions or objections have been filed and the time for filing such exceptions or objections has expired.

After careful consideration of the record and the issues, the Court has concluded that the Report and Recommendation of the United States Magistrate should be and hereby is adopted and affirmed.

It is, therefore, Ordered that the defendants' motion to dismiss is denied and their motion for summary judgment is granted

as to defendant Board of County Commissioners of Tulsa County, Oklahoma, the Sheriff of Tulsa county, Oklahoma, defendant deputies as to §§ 1985 and 1986 claims, and Mrs. Jones' claim, and denied as to defendant deputies for claims of violations of 42 U.S.C. §§ 1981 and 1983.

Dated this 13th day of October, 1989.


JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

ROY L. JACKSON,

Plaintiff,

vs.

TULSA MOTELS, d/b/a SAFARI
MANAGEMENT CO., HOLIDAY INN
TULSA CENTRAL, HOLIDAY INN, INC.)

Defendants.

Civil Action No. 89-C-200-C

ORDER OF DISMISSAL WITH PREJUDICE

On this 17 day of October, 1989, there having been presented to the Court Plaintiff's Application for an Order of Dismissal with Prejudice and the Court having been advised that this action has been settled;

IT IS THEREFORE ORDERED that Plaintiff's claims against all Defendants should be dismissed with prejudice to the refiling of same.

(Signed) H. Dale Cook

UNITED STATES DISTRICT COURT

IN THE UNITED STATES DISTRICT COURT FOR **F I L E D**
THE NORTHERN DISTRICT OF OKLAHOMA

OCT 17 1989

DENVER CORPORATION, an
Oklahoma corporation,

Plaintiff,

vs.

HYDRO CONDUIT CORPORATION,
a Delaware corporation,

Defendant.

Jack C. Silver, Clerk
U.S. DISTRICT COURT

No. 88-C-1489 E

ORDER OF DISMISSAL

WHEREAS, the parties to this action have filed a Joint Application to Dismiss this action as settled and the Court finds that the parties have settled the claims of the Plaintiff against the Defendant according to the Settlement Agreement dated October 3, 1989, and this action should be dismissed as settled.

NOW, THEREFORE, BE IT ORDERED, ADJUDGED AND DECREED that this action be and the same is hereby dismissed as settled by agreement of the parties.

Dated this 16 day of October, 1989.

W. JAMES G. ELLISON

UNITED STATES DISTRICT JUDGE

APPROVED:

JOSEPH R. FARRIS,
Attorney for Plaintiff.

JAMES E. POE,
Attorney for Defendant.

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED

OCT 17 1989

THE FIRST NATIONAL BANK AND TRUST)
COMPANY OF TULSA, TRUSTEE,)

Plaintiff,)

v.)

COMMONWEALTH MORTGAGE COMPANY OF)
AMERICA, L. P. and)
COMMONWEALTH MORTGAGE CORPORATION)
OF AMERICA,)

Defendants.)

Jack C. Silver, Clerk
U.S. DISTRICT COURT

CASE NO. 88-C-1659-E

ORDER

IT IS ORDERED that all claims asserted herein by The First National Bank and Trust Company of Tulsa, Trustee, Commonwealth Mortgage Company of America, L. P. and Commonwealth Mortgage Corporation of America are dismissed with each party to bear its own costs.

DATED this 16 day of October, 1989.

JAMES O. ELLISON

JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

F I L E D

OCT 17 1989

GORDON KEITH SMITH,
Plaintiff,

vs.

UNITED STATES OF AMERICA,
Defendant.

)
)
)
)
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)
)
)
)
)

Jack C. Silver, Clerk
U.S. DISTRICT COURT

No. 89-C-807-E
CRIMINAL: 88-CR-94-03-E

O R D E R

Petitioner, Gordon Keith Smith, has filed a motion under 28 U.S.C. §2255 asking the Court to resentence him under the sentencing guidelines. At the time Defendant was sentenced on November 1, 1988 this Court had ruled the sentencing guidelines unconstitutional. The case of Mistretta v. United States, ruled that the sentencing guidelines are constitutional, and the guidelines subsequently have been put into effect. Petitioner's co-defendant, Mark J. Shepherd, was resented under the guidelines on March 24, 1989.

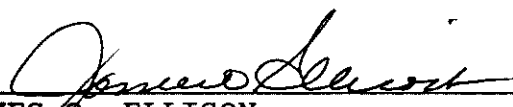
The Court is of the opinion that Smith's request to be resented can be adequately addressed without resorting to an action under 28 U.S.C. §2255. It would be better to administratively close the civil case, 89-C-807-E, "Gordon Keith Smith v. United States," and treat Smith's request as a motion in his criminal case, 88-CR-094-03-E.

IT IS THEREFORE ORDERED that the Clerk is directed to administratively terminate the action 89-C-807-E in his records;

IT IS FURTHER ORDERED that Petitioner's motion be restyled "Motion to be Resentenced Under Sentencing Guidelines," and

IT IS FURTHER ORDERED that the United States is directed to respond to Smith's motion within twenty (20) days of the filing of this Order.

ORDERED this 13th day of October, 1989.



JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

JWN/ta
10/06/89

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

EVERETT ORVILLE HEMANN, and
MARIAN M. HEMANN, Plaintiff's Spouse,

Plaintiffs,

vs.

ANCHOR PACKING COMPANY, et al.,

Defendants.

OCT 10 1989
JACK C. STANLEY, CLERK
U.S. DISTRICT COURT

No. 88-C-701-E

STIPULATED JOINT MOTION FOR,
AND ORDER OF, DISMISSAL
WITHOUT PREJUDICE AS TO DEFENDANT
C. P. HALL COMPANY

Fed.R.Civ.P. 41(a)(2)

M O T I O N

Plaintiffs and Defendant C. P. Hall Company jointly move
this Court for an Order of Dismissal Without Prejudice of the
above-styled action.

F I L E D

OCT 17 1989

O R D E R

Jack C. Stanley, Clerk
U.S. DISTRICT COURT

Upon the above and foregoing Joint and Stipulated Motion
for Order of Dismissal Without Prejudice, the above-styled action
is hereby dismissed without prejudice as to C. P. Hall Company,
each party to bear its own costs.

97 JAMES O. ELLISON

JAMES O. ELLISON
U.S. DISTRICT COURT JUDGE

NOTICE TO BE FILED
BY MOVANT TO ALL CO-DEFENDANTS AND
PRO SE LITIGANTS IMMEDIATELY
UPON RECEIPT.

APPROVED:

LAW OFFICES OF
JOHN W. NORMAN INCORPORATED
ATTORNEYS FOR PLAINTIFFS

By: 

JOHN W. NORMAN - OBA #6699
GINA L. HENDRYX - OBA #10330
Renaissance Centre East
127 N.W. 10th
Oklahoma City, OK 73103-4903
405/272-0200

McGIVERN, SCOTT, GILLIARD, McGIVERN & ROBINSON
ATTORNEYS FOR DEFENDANT C. P. HALL COMPANY

By: 

DANIEL L. CRAWFORD
P.O. Box 2619
Tulsa, OK 74101-2619
918/584-3391 (O)
918/592-2416 (F)

JWN/ta
10/06/89

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

JOHN FREDRICK TYREE, and V. MAXINE TYREE,
Plaintiff's Spouse,

Plaintiffs,

vs.

ANCHOR PACKING COMPANY, et al.,

Defendants.

No. 88-C-699-E

STIPULATED JOINT MOTION FOR,
AND ORDER OF, DISMISSAL
WITHOUT PREJUDICE AS TO DEFENDANT
C. P. HALL COMPANY

Fed.R.Civ.P. 41(a)(2)

M O T I O N

Plaintiffs and Defendant C. P. Hall Company jointly move
this Court for an Order of Dismissal Without Prejudice of the
above-styled action.

FILED

OCT 17 1989

O R D E R

Jack C. Shaw, Clerk
U.S. DISTRICT COURT

Upon the above and foregoing Joint and Stipulated Motion
for Order of Dismissal Without Prejudice, the above-styled action
is hereby dismissed without prejudice as to C. P. Hall Company,
each party to bear its own costs.

57 JAMES O. ELLISON

JAMES O. ELLISON
U.S. DISTRICT COURT JUDGE

NOTE: THIS ORDER IS TO BE MAILED
BY MOVANT TO ALL COUNSEL AND
PRO SE LITIGANTS IMMEDIATELY
UPON RECEIPT.

APPROVED:

LAW OFFICES OF
JOHN W. NORMAN INCORPORATED
ATTORNEYS FOR PLAINTIFFS

By: 

JOHN W. NORMAN - OBA #6699
GINA L. HENDRYX - OBA #10330
Renaissance Centre East
127 N.W. 10th
Oklahoma City, OK 73103-4903
405/272-0200

McGIVERN, SCOTT, GILLIARD, McGIVERN & ROBINSON
ATTORNEYS FOR DEFENDANT C. P. HALL COMPANY

By: 

DANIEL L. CRAWFORD
P.O. Box 2619
Tulsa, OK 74101-2619
918/584-3391 (O)
918/592-2416 (F)

JWN/ta
10/06/89

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

OCT 10 1989
JACK C. SILVER, CLERK
U.S. DISTRICT COURT

BOBBY LEE BAUER, Plaintiff and
HELEN L. BAUER, Plaintiff's spouse,
and FRED FAULKNER, Plaintiff and
MARGARET N. FAULKNER, Plaintiff's spouse,
and IRA ROY DENMAN, Plaintiff, and
DONNA MAXINE DENMAN, Plaintiff's spouse,

No. 87-C-66-E

Plaintiffs,

vs.

ANCHOR PACKING COMPANY, et al.,

Defendants.

STIPULATED JOINT MOTION FOR,
AND ORDER OF, DISMISSAL
WITHOUT PREJUDICE AS TO DEFENDANT
C. P. HALL COMPANY

Fed.R.Civ.P. 41(a)(2)

M O T I O N

Plaintiffs and Defendant C. P. Hall Company jointly move
this Court for an Order of Dismissal Without Prejudice of the
above-styled action.

FILED

OCT 17 1989

O R D E R

Jack C. Silver, Clerk

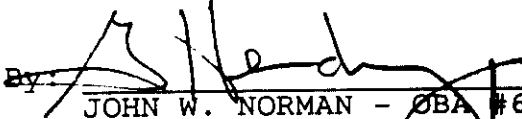
Upon the above and foregoing Joint and Stipulated Motion
for Order of Dismissal Without Prejudice, the above-styled action
is hereby dismissed without prejudice as to C. P. Hall Company,
each party to bear its own costs.

BY JAMES O. ELLISON

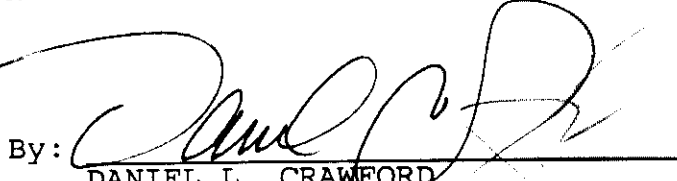
JAMES O. ELLISON
U.S. DISTRICT COURT JUDGE

APPROVED:

LAW OFFICES OF
JOHN W. NORMAN INCORPORATED
ATTORNEYS FOR PLAINTIFFS

By: 
JOHN W. NORMAN - OBA #6699
GINA L. HENDRYX - OBA #10330
Renaissance Centre East
127 N.W. 10th
Oklahoma City, OK 73103-4903
405/272-0200

McGIVERN, SCOTT, GILLIARD, McGIVERN & ROBINSON
ATTORNEYS FOR DEFENDANT C. P. HALL COMPANY

By: 
DANIEL L. CRAWFORD
P.O. Box 2619
Tulsa, OK 74101-2619
918/584-3391 (O)
918/592-2416 (F)

JWN/ta
10/06/89

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

JACK C. SILVER, CLERK
U.S. DISTRICT COURT

FLORA L. POWELL, individually, and as
surviving wife of HUBERT C. POWELL, deceased,

Plaintiff,

vs.

ANCHOR PACKING COMPANY, a corporation; et al.,

Defendants.

No. 88-C-555-E

STIPULATED JOINT MOTION FOR,
AND ORDER OF, DISMISSAL
WITHOUT PREJUDICE AS TO DEFENDANT
C. P. HALL COMPANY

Fed.R.Civ.P. 41(a)(2)

M O T I O N

Plaintiff and Defendant C. P. Hall Company jointly move
this Court for an Order of Dismissal Without Prejudice of the
above-styled action.

FILED

OCT 17 1989

O R D E R

Jack C. Silver, Clerk
U.S. DISTRICT COURT

Upon the above and foregoing Joint and Stipulated Motion
for Order of Dismissal Without Prejudice, the above-styled action
is hereby dismissed without prejudice as to C. P. Hall Company,
each party to bear its own costs.

JAMES O. ELLISON

JAMES O. ELLISON
U.S. DISTRICT COURT JUDGE

APPROVED:

LAW OFFICES OF
JOHN W. NORMAN INCORPORATED
ATTORNEYS FOR PLAINTIFF

By: 

JOHN W. NORMAN - OBA #6699
GINA L. HENDRYX - OBA #10330
Renaissance Centre East
127 N.W. 10th
Oklahoma City, OK 73103-4903
405/272-0200

McGIVERN, SCOTT, GILLIARD, McGIVERN & ROBINSON
ATTORNEYS FOR DEFENDANT C. P. HALL COMPANY

By: 

DANIEL L. CRAWFORD
P.O. Box 2619
Tulsa, OK 74101-2619
918/584-3391 (O)
918/592-2416 (F)

JWN/ta
10/05/89

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

EVERETT ORVILLE HEMANN, and
MARIAN M. HEMANN, Plaintiff's Spouse,
Plaintiffs,

vs.

ANCHOR PACKING COMPANY, et al.,
Defendants.

FILED
OCT 11 1989
JACK C. SILVER
U.S. DISTRICT COURT

No. 88-C-701-E

STIPULATED JOINT MOTION FOR,
AND ORDER OF, DISMISSAL
WITHOUT PREJUDICE AS TO DEFENDANT
NORTH GEORGIA MINERAL & CHEMICAL CORPORATION

Fed.R.Civ.P. 41(a)(2)

M O T I O N

Plaintiffs and Defendant North Georgia Mineral &
Chemical Corporation jointly move this Court for an Order of
Dismissal Without Prejudice of the above-styled action.

O R D E R

OCT 17 1989

Upon the above and foregoing Joint and Stipulated Motion
for Order of Dismissal Without Prejudice, the above-styled action
is hereby dismissed without prejudice as to North Georgia Mineral
& Chemical Corporation, each party to bear its own costs.

JAMES O. ELLISON

JAMES O. ELLISON
U.S. DISTRICT COURT JUDGE

THIS ORDER IS TO BE MAILED
BY CLERK OF COURT
OCT 17 1989

APPROVED:

LAW OFFICES OF
JOHN W. NORMAN INCORPORATED
ATTORNEYS FOR PLAINTIFFS

By: 

JOHN W. NORMAN - OBA #8699
GINA L. HENDRYX - OBA #10330
Renaissance Centre East
127 N.W. 10th
Oklahoma City, OK 73103-4903
405/272-0200

MILLS, WHITTEN, MILLS, MILLS & HINKLE
ATTORNEYS FOR DEFENDANT NORTH GEORGIA
MINERAL & CHEMICAL CORPORATION

By: 

MICHAEL W. HINKLE
500 One Leadership Square
211 N. Robinson
Oklahoma City, OK 73102
405/239-2500

JWN/lc
10/04/89

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

OCT 11 1989

EVERETT ORVILLE HEMANN, and
MARIAN M. HEMANN, Plaintiff's Spouse,

Plaintiffs,

vs.

ANCHOR PACKING COMPANY, et al.,

Defendants.

No. 88-C-701-E

STIPULATED JOINT MOTION FOR,
AND ORDER OF, DISMISSAL
WITHOUT PREJUDICE AS TO DEFENDANT
A. W. CHESTERTON COMPANY

Fed.R.Civ.P. 41(a)(2)

M O T I O N

Plaintiffs and Defendant A. W. Chesterton Company,
jointly move this Court for an Order of Dismissal Without Preju-
dice of the above-styled action.

F I L E D

OCT 17 1989

O R D E R

Jack C. Silver, Clerk
U.S. DISTRICT COURT

Upon the above and foregoing Joint and Stipulated Motion
for Order of Dismissal Without Prejudice, the above-styled action
is hereby dismissed without prejudice as to A. W. Chesterton
Company, each party to bear its own costs.

JAMES O. ELLISON
U.S. DISTRICT COURT JUDGE

NOTED FOR ENTRY BY CLERK

FILED

APPROVED:

LAW OFFICES OF
JOHN W. NORMAN INCORPORATED
ATTORNEYS FOR PLAINTIFFS

By: 

JOHN W. NORMAN - OBA #6699
GINA L. HENDRYX - OBA #10330
Renaissance Centre East
127 N.W. 10th
Oklahoma City, OK 73103-4903
405/272-0200

FELDMAN, HALL, FRADEN, WOODARD & FARRIS
ATTORNEYS FOR DEFENDANT A. W. CHESTERTON COMPANY

By: 

WILLIAM S. HALL #3739
Park Centre, Suite 1400
525 S. Main Street
Tulsa, OK 74103-4409
918/583-7129 (O)
918/584-3814 (F)

JWN/lc
10/04/89

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

OCT 11 1989
U.S. DISTRICT COURT

BOBBY LEE BAUER, Plaintiff and)
HELEN L. BAUER, Plaintiff's spouse,)
and FRED FAULKNER, Plaintiff and)
MARGARET N. FAULKNER, Plaintiff's spouse,)
and IRA ROY DENMAN, Plaintiff, and)
DONNA MAXINE DENMAN, Plaintiff's spouse,)

No. 87-C-66-E

Plaintiffs,)

vs.)

ANCHOR PACKING COMPANY, et al.,)

Defendants.)

STIPULATED JOINT MOTION FOR,
AND ORDER OF, DISMISSAL
WITHOUT PREJUDICE AS TO DEFENDANT
A. W. CHESTERTON COMPANY

Fed.R.Civ.P. 41(a)(2)

M O T I O N

Plaintiffs and Defendant A. W. Chesterton Company,
jointly move this Court for an Order of Dismissal Without Preju-
dice of the above-styled action.

F I L E D

OCT 17 1989

O R D E R

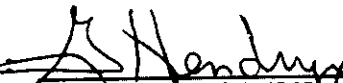
Upon the above and foregoing Joint and Stipulated Motion
for Order of Dismissal Without Prejudice, the above-styled action
is hereby dismissed without prejudice as to A. W. Chesterton
Company, each party to bear its own costs.

2/ JAMES O. ELLISON

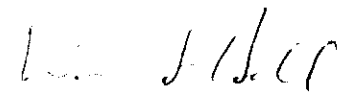
JAMES O. ELLISON
U.S. DISTRICT COURT JUDGE

APPROVED:

LAW OFFICES OF
JOHN W. NORMAN INCORPORATED
ATTORNEYS FOR PLAINTIFFS

By: 
JOHN W. NORMAN - OBA #6699
GINA L. HENDRYX - OBA #10330
Renaissance Centre East
127 N.W. 10th
Oklahoma City, OK 73103-4903
405/272-0200

FELDMAN, HALL, FRADEN, WOODARD & FARRIS
ATTORNEYS FOR DEFENDANT A. W. CHESTERTON COMPANY

By: 
WILLIAM S. HALL #3739
Park Centre, Suite 1400
525 S. Main Street
Tulsa, OK 74103-4409
918/583-7129 (O)
918/584-3814 (F)

JWN/ta
10/05/89

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

BOBBY LEE BAUER, Plaintiff and)
HELEN L. BAUER, Plaintiff's spouse,)
and FRED FAULKNER, Plaintiff and)
MARGARET N. FAULKNER, Plaintiff's spouse,)
and IRA ROY DENMAN, Plaintiff, and)
DONNA MAXINE DENMAN, Plaintiff's spouse,) No. 87-C-66-E
Plaintiffs,)
vs.)
ANCHOR PACKING COMPANY, et al.,)
Defendants.)

STIPULATED JOINT MOTION FOR,
AND ORDER OF, DISMISSAL
WITHOUT PREJUDICE AS TO DEFENDANT
ANCHOR PACKING COMPANY

Fed.R.Civ.P. 41(a)(2)

M O T I O N

Plaintiffs and Defendant Anchor Packing Company jointly
move this Court for an Order of Dismissal Without Prejudice of
the above-styled action.

OCT 17 1989

O R D E R

Jack C. Silver, Clerk
U.S. DISTRICT COURT

Upon the above and foregoing Joint and Stipulated Motion
for Order of Dismissal Without Prejudice, the above-styled action
is hereby dismissed without prejudice as to Anchor Packing Com-
pany, each party to bear its own costs.

/s/ JAMES O. ELLISON

JAMES O. ELLISON
U.S. DISTRICT COURT JUDGE

FILED THIS 17TH DAY OF OCTOBER 1989
BY JAMES O. ELLISON, CLERK
PRO SE DEPARTMENT OF JUSTICE
UPON REQUEST

APPROVED:

LAW OFFICES OF
JOHN W. NORMAN INCORPORATED
ATTORNEYS FOR PLAINTIFFS

By: 

JOHN W. NORMAN - OBA #6699
GINA L. HENDRYX - OBA #10330
Renaissance Centre East
127 N.W. 10th
Oklahoma City, OK 73103-4903
405/272-0200

RHODES, HIERONYMOS, JONES, TUCKER & GABLE
ATTORNEYS FOR DEFENDANT ANCHOR PACKING COMPANY

By: 

CHRIS L. RHODES
2800 Fourth National Bank Bldg.
Tulsa, OK 74119
918/582-1173

JWN/ta
10/05/89

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

OCT 17 1989

Jack C. Silver, Clerk
U.S. DISTRICT COURT

BOBBY LEE BAUER, Plaintiff and)
HELEN L. BAUER, Plaintiff's spouse,)
and FRED FAULKNER, Plaintiff and)
MARGARET N. FAULKNER, Plaintiff's spouse,)
and IRA ROY DENMAN, Plaintiff, and)
DONNA MAXINE DENMAN, Plaintiff's spouse,)

No. 87-C-66-E

Plaintiffs,)

vs.)

ANCHOR PACKING COMPANY, et al.,)

Defendants.)

STIPULATED JOINT MOTION FOR,
AND ORDER OF, DISMISSAL
WITHOUT PREJUDICE AS TO DEFENDANT
NORTH GEORGIA MINERAL & CHEMICAL CORPORATION

Fed.R.Civ.P. 41(a)(2)

M O T I O N

Plaintiffs and Defendant North Georgia Mineral &
Chemical Corporation jointly move this Court for an Order of
Dismissal Without Prejudice of the above-styled action.

FILED

OCT 17 1989

O R D E R

Jack C. Silver, Clerk
U.S. DISTRICT COURT


Upon the above and foregoing Joint and Stipulated Motion
for Order of Dismissal Without Prejudice, the above-styled action
is hereby dismissed without prejudice as to North Georgia Mineral
& Chemical Corporation, each party to bear its own costs.

JAMES O. ELLISON
U.S. DISTRICT COURT JUDGE

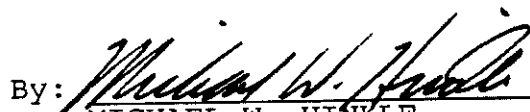
NOTE: THIS ORDER IS TO BE MAILED
BY MAIL TO ALL COUNSEL AND
THE COURT CLERK IMMEDIATELY

APPROVED:

LAW OFFICES OF
JOHN W. NORMAN INCORPORATED
ATTORNEYS FOR PLAINTIFFS

By: 
JOHN W. NORMAN - OBA #6699
GINA L. HENDRYX - OBA #10330
Renaissance Centre East
127 N.W. 10th
Oklahoma City, OK 73103-4903
405/272-0200

MILLS, WHITTEN, MILLS, MILLS & HINKLE
ATTORNEYS FOR DEFENDANT NORTH GEORGIA
MINERAL & CHEMICAL CORPORATION

By: 
MICHAEL W. HINKLE
500 One Leadership Square
211 N. Robinson
Oklahoma City, OK 73102
405/239-2500

JWN/ta
10/04/89

FILED

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

OCT 11 1989

Jock C. Silver, Clerk
U.S. DISTRICT COURT

BOBBY LEE BAUER, Plaintiff and)
HELEN L. BAUER, Plaintiff's spouse,)
and FRED FAULKNER, Plaintiff and)
MARGARET N. FAULKNER, Plaintiff's spouse,)
and IRA ROY DENMAN, Plaintiff, and)
DONNA MAXINE DENMAN, Plaintiff's spouse,)

No. 87-C-66-E

Plaintiffs,)

vs.)

ANCHOR PACKING COMPANY, et al.,)

Defendants.)

STIPULATED JOINT MOTION FOR,
AND ORDER OF, DISMISSAL
WITHOUT PREJUDICE AS TO DEFENDANT
GARLOCK, INC.

Fed.R.Civ.P. 41(a)(2)

M O T I O N

Plaintiffs and Defendant Garlock, Inc., jointly move
this Court for an Order of Dismissal Without Prejudice of the
above-styled action.

OCT 17 1989

O R D E R

Jock C. Silver, Clerk
U.S. DISTRICT COURT

Upon the above and foregoing Joint and Stipulated Motion
for Order of Dismissal Without Prejudice, the above-styled action
is hereby dismissed without prejudice as to Garlock, Inc., each
party to bear its own costs.


S/ JAMES O. ELLISON

JAMES O. ELLISON
U.S. DISTRICT COURT JUDGE

RECEIVED
JACK C. SILVER, CLERK
U.S. DISTRICT COURT
OCT 17 1989
UPON RECEIPT.

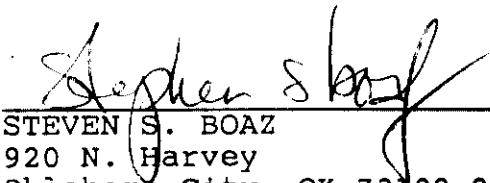
APPROVED:

LAW OFFICES OF
JOHN W. NORMAN INCORPORATED
ATTORNEYS FOR PLAINTIFFS

By: 

JOHN W. NORMAN - OBA #6699
GINA L. HENDRYX - OBA #10330
Renaissance Centre East
127 N.W. 10th
Oklahoma City, OK 73103-4903
405/272-0200

DURBIN, LARIMORE & BIALICK
ATTORNEYS FOR DEFENDANT GARLOCK, INC.

By: 

STEVEN S. BOAZ
920 N. Harvey
Oklahoma City, OK 73102-2610
405/235-9584 (O)
405/235-0551 (F)

JWN/lc
10/04/89

OCT 11 1989

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

CLERK
U.S. DISTRICT COURT

FLORA L. POWELL, individually, and as)
surviving wife of HUBERT C. POWELL, deceased,)
)
Plaintiff,)
)
vs.)
)
ANCHOR PACKING COMPANY, a corporation; et al.,)
)
Defendants.)

No. 88-C-555-E

STIPULATED JOINT MOTION FOR,
AND ORDER OF, DISMISSAL
WITHOUT PREJUDICE AS TO DEFENDANT
A. W. CHESTERTON COMPANY

Fed.R.Civ.P. 41(a)(2)

M O T I O N

Plaintiff and Defendant A. W. Chesterton Company,
jointly move this Court for an Order of Dismissal Without Preju-
dice of the above-styled action.

F I L E D

OCT 17 1989

O R D E R

Jack C. Silver,
U.S. DISTRICT COURT

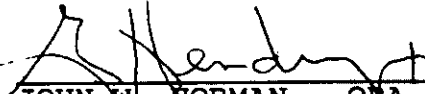
Upon the above and foregoing Joint and Stipulated Motion
for Order of Dismissal Without Prejudice, the above-styled action
is hereby dismissed without prejudice as to A. W. Chesterton
Company, each party to bear its own costs.


JAMES O. ELLISON
U.S. DISTRICT COURT JUDGE

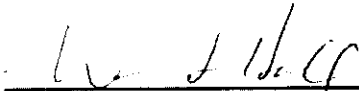
NOTE: This document is a copy of the original filed with the court. It is not to be used for any other purpose.
U.S. DISTRICT COURT

APPROVED:

LAW OFFICES OF
JOHN W. NORMAN INCORPORATED
ATTORNEYS FOR PLAINTIFF

By: 
JOHN W. NORMAN - OBA #6699
GINA L. HENDRYX - OBA #10330
Renaissance Centre East
127 N.W. 10th
Oklahoma City, OK 73103-4903
405/272-0200

FELDMAN, HALL, FRADEN, WOODARD & FARRIS
ATTORNEYS FOR DEFENDANT A. W. CHESTERTON COMPANY

By: 
WILLIAM S. HALL #3774
Park Centre, Suite 1400
525 S. Main Street
Tulsa, OK 74103-4409
918/583-7129 (O)
918/584-3814 (F)

JWN/ta
10/05/89

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FLORA L. POWELL, individually, and as
surviving wife of HUBERT C. POWELL, deceased,

Plaintiff,

vs.

ANCHOR PACKING COMPANY, a corporation; et al.,

Defendants.

No. 88-C-555-E

STIPULATED JOINT MOTION FOR,
AND ORDER OF, DISMISSAL
WITHOUT PREJUDICE AS TO DEFENDANT
ANCHOR PACKING COMPANY

Fed.R.Civ.P. 41(a)(2)

M O T I O N

Plaintiff and Defendant Anchor Packing Company jointly
move this Court for an Order of Dismissal Without Prejudice of
the above-styled action.

FILED

OCT 17 1989

O R D E R

Jack C. Silver, Clerk
U.S. DISTRICT COURT

Upon the above and foregoing Joint and Stipulated Motion
for Order of Dismissal Without Prejudice, the above-styled action
is hereby dismissed without prejudice as to Anchor Packing Com-
pany, each party to bear its own costs.

JAMES O. ELLISON

NOTE: THIS CASE IS TO BE MAILED U.S. DISTRICT COURT JUDGE

BY COUNSEL AND
IMMEDIATELY

APPROVED:

LAW OFFICES OF
JOHN W. NORMAN INCORPORATED
ATTORNEYS FOR PLAINTIFF

By: 

JOHN W. NORMAN - OBA #6699
GINA L. HENDRYX - OBA #10330
Renaissance Centre East
127 N.W. 10th
Oklahoma City, OK 73103-4903
405/272-0200

RHODES, HIERONYMOS, JONES, TUCKER & GABLE
ATTORNEYS FOR DEFENDANT ANCHOR PACKING COMPANY

By: 

CHRIS L. RHODES
2800 Fourth National Bank Bldg.
Tulsa, OK 74119
918/582-1173

JWN/lc
10/04/89

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

OCT 11 1989

FLORA L. POWELL, individually, and as)
surviving wife of HUBERT C. POWELL, deceased,)
)
Plaintiff,)
)
vs.)
)
ANCHOR PACKING COMPANY, a corporation; et al.,)
)
Defendants.)

Jack C. Silver, Clerk
U.S. District Court

No. 88-C-555-E

STIPULATED JOINT MOTION FOR,
AND ORDER OF, DISMISSAL
WITHOUT PREJUDICE AS TO DEFENDANT
GARLOCK, INC.

Fed.R.Civ.P. 41(a)(2)

M O T I O N

Plaintiff and Defendant Garlock, Inc., jointly move
this Court for an Order of Dismissal Without Prejudice of the
above-styled action.

FILED

OCT 17 1989

O R D E R

Jack C. Silver, Clerk
U.S. District Court

Upon the above and foregoing Joint and Stipulated Motion
for Order of Dismissal Without Prejudice, the above-styled action
is hereby dismissed without prejudice as to Garlock, Inc., each
party to bear its own costs.

S/ JAMES O. ELLISON

NOTE: THIS ORDER IS TO BE MAILED


JAMES O. ELLISON

U.S. DISTRICT COURT JUDGE

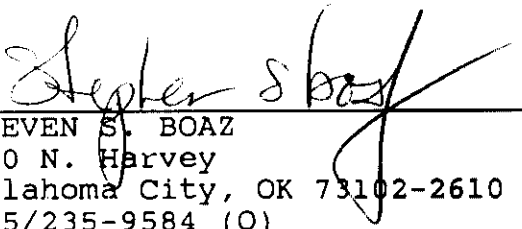
BY: JAMES O. ELLISON
CLERK OF COURT

APPROVED:

LAW OFFICES OF
JOHN W. NORMAN INCORPORATED
ATTORNEYS FOR PLAINTIFF

By: 
JOHN W. NORMAN - OBA #6699
GINA L. HENDRYX - OBA #10330
Renaissance Centre East
127 N.W. 10th
Oklahoma City, OK 73103-4903
405/272-0200

DURBIN, LARIMORE & BIALICK
ATTORNEYS FOR DEFENDANT GARLOCK, INC.

By: 
STEVEN S. BOAZ
920 N. Harvey
Oklahoma City, OK 73102-2610
405/235-9584 (O)
405/235-0551 (F)

JWN/lc
10/04/89

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

JOHN FREDRICK TYREE, and V. MAXINE TYREE,
Plaintiff's Spouse,

Plaintiffs,

vs.

ANCHOR PACKING COMPANY, et al.,

Defendants.

No. 88-C-699-E

STIPULATED JOINT MOTION FOR,
AND ORDER OF, DISMISSAL
WITHOUT PREJUDICE AS TO DEFENDANT
GARLOCK, INC.

Fed.R.Civ.P. 41(a)(2)

M O T I O N

Plaintiffs and Defendant Garlock, Inc., jointly move
this Court for an Order of Dismissal Without Prejudice of the
above-styled action.

O R D E R

OCT 17 1989

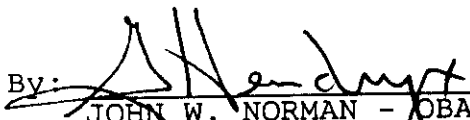
Upon the above and foregoing Joint and Stipulated Motion
for Order of Dismissal Without Prejudice, the above-styled action
is hereby dismissed without prejudice as to Garlock, Inc., each
party to bear its own costs.

JAMES O. ELLISON
U.S. DISTRICT COURT JUDGE

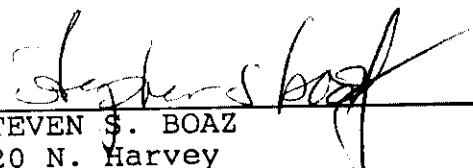
NOTE: THIS ORDER IS TO BE MAILED
BY MOVANT TO ALL COUNSEL AND
PRO SE LITIGANTS IMMEDIATELY
UPON RECEIPT.

APPROVED:

LAW OFFICES OF
JOHN W. NORMAN INCORPORATED
ATTORNEYS FOR PLAINTIFFS

By: 
JOHN W. NORMAN - OBA #6699
GINA L. HENDRYX - OBA #10330
Renaissance Centre East
127 N.W. 10th
Oklahoma City, OK 73103-4903
405/272-0200

DURBIN, LARIMORE & BIALICK
ATTORNEYS FOR DEFENDANT GARLOCK, INC.

By: 
STEVEN S. BOAZ
920 N. Harvey
Oklahoma City, OK 73102-2610
405/235-9584 (O)
405/235-0551 (F)

JWN/ta
10/05/89

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED
OCT 11 1989

JOHN FREDRICK TYREE, and V. MAXINE TYREE,
Plaintiff's Spouse,

Plaintiffs,

vs.

ANCHOR PACKING COMPANY, et al.,

Defendants.

Jack C. Silver, Clerk
U.S. DISTRICT COURT

No. 88-C-699-E

STIPULATED JOINT MOTION FOR,
AND ORDER OF, DISMISSAL
WITHOUT PREJUDICE AS TO DEFENDANT
NORTH GEORGIA MINERAL & CHEMICAL CORPORATION

Fed.R.Civ.P. 41(a)(2)

M O T I O N

Plaintiffs and Defendant North Georgia Mineral &
Chemical Corporation jointly move this Court for an Order of
Dismissal Without Prejudice of the above-styled action.

O R D E R

OCT 17 1989

Jack C. Silver, Clerk

Upon the above and foregoing Joint and Stipulated Motion
for Order of Dismissal Without Prejudice, the above-styled action
is hereby dismissed without prejudice as to North Georgia Mineral
& Chemical Corporation, each party to bear its own costs.

JAMES O. ELLISON

JAMES O. ELLISON
U.S. DISTRICT COURT JUDGE

NOTE: THIS ORDER IS TO BE MAILED
BY MOVANT TO ALL COUNSEL AND
PRO SE LITIGANTS IMMEDIATELY
UPON RECEIPT.

APPROVED:

LAW OFFICES OF
JOHN W. NORMAN INCORPORATED
ATTORNEYS FOR PLAINTIFFS

By: 

JOHN W. NORMAN - OBA #6699
GINA L. HENDRYX - OBA #10330
Renaissance Centre East
127 N.W. 10th
Oklahoma City, OK 73103-4903
405/272-0200

MILLS, WHITTEN, MILLS, MILLS & HINKLE
ATTORNEYS FOR DEFENDANT NORTH GEORGIA
MINERAL & CHEMICAL CORPORATION

By: 

MICHAEL W. HINKLE
500 One Leadership Square
211 N. Robinson
Oklahoma City, OK 73102
405/239-2500

JWN/ta
10/05/89

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

JOHN FREDRICK TYREE, and V. MAXINE TYREE,
Plaintiff's Spouse,

Plaintiffs,

vs.

ANCHOR PACKING COMPANY, et al.,

Defendants.

No. 88-C-699-E

STIPULATED JOINT MOTION FOR,
AND ORDER OF, DISMISSAL
WITHOUT PREJUDICE AS TO DEFENDANT
ANCHOR PACKING COMPANY

Fed.R.Civ.P. 41(a)(2)

M O T I O N

Plaintiffs and Defendant Anchor Packing Company jointly
move this Court for an Order of Dismissal Without Prejudice of
the above-styled action.

FILED

OCT 17 1989

O R D E R

Jack C. Silver, Clerk
U.S. DISTRICT COURT

Upon the above and foregoing Joint and Stipulated Motion
for Order of Dismissal Without Prejudice, the above-styled action
is hereby dismissed without prejudice as to Anchor Packing Com-
pany, each party to bear its own costs.

S/ JAMES O. ELLISON

JAMES O. ELLISON
U.S. DISTRICT COURT JUDGE

NOTE: THIS ORDER IS TO BE MAILED
BY MOVANT TO ALL COUNSEL AND
PRO SE LITIGANTS IMMEDIATELY
UPON RECEIPT.

APPROVED:

LAW OFFICES OF
JOHN W. NORMAN INCORPORATED
ATTORNEYS FOR PLAINTIFFS

By: 

JOHN W. NORMAN - OBA #6699
GINA L. HENDRYX - OBA #10330
Renaissance Centre East
127 N.W. 10th
Oklahoma City, OK 73103-4903
405/272-0200

RHODES, HIERONYMOS, JONES, TUCKER & GABLE
ATTORNEYS FOR DEFENDANT ANCHOR PACKING COMPANY

By: 

CHRIS L. RHODES
2800 Fourth National Bank Bldg.
Tulsa, OK 74119
918/582-1173

JWN/lc
10/04/89

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

JOHN FREDRICK TYREE, and V. MAXINE TYREE,
Plaintiff's Spouse,

Plaintiffs,

vs.

ANCHOR PACKING COMPANY, et al.,

Defendants.

No. 88-C-699-E

STIPULATED JOINT MOTION FOR,
AND ORDER OF, DISMISSAL
WITHOUT PREJUDICE AS TO DEFENDANT
A. W. CHESTERTON COMPANY

Fed.R.Civ.P. 41(a)(2)

M O T I O N

Plaintiffs and Defendant A. W. Chesterton Company,
jointly move this Court for an Order of Dismissal Without Preju-
dice of the above-styled action.

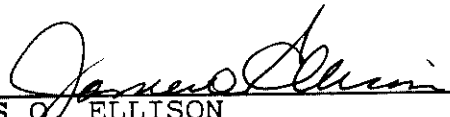
F I L E D

OCT 17 1989

O R D E R

Jack C. Silver, Clerk
U.S. DISTRICT COURT


Upon the above and foregoing Joint and Stipulated Motion
for Order of Dismissal Without Prejudice, the above-styled action
is hereby dismissed without prejudice as to A. W. Chesterton
Company, each party to bear its own costs.


JAMES O. ELLISON
U.S. DISTRICT COURT JUDGE


NOTE: THIS ORDER IS TO BE MAILED
BY MOVANT TO ALL COUNSEL AND
PRO SE LITIGANTS IMMEDIATELY
UPON RECEIPT.

APPROVED:

LAW OFFICES OF
JOHN W. NORMAN INCORPORATED
ATTORNEYS FOR PLAINTIFFS

By: 
JOHN W. NORMAN - OBA #6699
GINA L. HENDRYX - OBA #10330
Renaissance Centre East
127 N.W. 10th
Oklahoma City, OK 73103-4903
405/272-0200

FELDMAN, HALL, FRADEN, WOODARD & FARRIS
ATTORNEYS FOR DEFENDANT A. W. CHESTERTON COMPANY

By: 
WILLIAM S. HALL #3734
Park Centre, Suite 1400
525 S. Main Street
Tulsa, OK 74103-4409
918/583-7129 (O)
918/584-3814 (F)

JWN/ta
10/05/89

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FLORA L. POWELL, individually, and as
surviving wife of HUBERT C. POWELL, deceased,

Plaintiff,

vs.

ANCHOR PACKING COMPANY, a corporation; et al.,

Defendants.

FILED
OCT 11 1989
JACK C. SILVER, Clerk
U.S. DISTRICT COURT

No. 88-C-555-E

STIPULATED JOINT MOTION FOR,
AND ORDER OF, DISMISSAL
WITHOUT PREJUDICE AS TO DEFENDANT
NORTH GEORGIA MINERAL & CHEMICAL CORPORATION

Fed.R.Civ.P. 41(a)(2)

M O T I O N

Plaintiff and Defendant North Georgia Mineral & Chemical
Corporation jointly move this Court for an Order of Dismissal
Without Prejudice of the above-styled action.

FILED
OCT 17 1989

O R D E R

Jack C. Silver, Clerk
U.S. DISTRICT COURT

Upon the above and foregoing Joint and Stipulated Motion
for Order of Dismissal Without Prejudice, the above-styled action
is hereby dismissed without prejudice as to North Georgia Mineral
& Chemical Corporation, each party to bear its own costs.

NOTE: THIS ORDER IS TO BE MAILED
BY SERVING TO ALL COUNSEL AND
PRO SE LITIGANTS IMMEDIATELY
UPON RECEIPT.

JAMES O. ELLISON
U.S. DISTRICT COURT JUDGE

APPROVED:

LAW OFFICES OF
JOHN W. NORMAN INCORPORATED
ATTORNEYS FOR PLAINTIFF

By: 

JOHN W. NORMAN - OBA #6699
GINA L. HENDRYX - OBA #10330
Renaissance Centre East
127 N.W. 10th
Oklahoma City, OK 73103-4903
405/272-0200

MILLS, WHITTEN, MILLS, MILLS & HINKLE
ATTORNEYS FOR DEFENDANT NORTH GEORGIA
MINERAL & CHEMICAL CORPORATION

By: 

MICHAEL W. HINKLE
500 One Leadership Square
211 N. Robinson
Oklahoma City, OK 73102
405/239-2500

JWN/ta
10/05/89

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

JOHNNIE JUNIOR ENGLAND, and
KATHRYN JANIE ENGLAND, Plaintiff's Spouse,
Plaintiffs,

vs.

ANCHOR PACKING COMPANY, et al.,
Defendants.

No. 88-C-709-C

STIPULATED JOINT MOTION FOR,
AND ORDER OF, DISMISSAL
WITHOUT PREJUDICE AS TO DEFENDANT
ANCHOR PACKING COMPANY

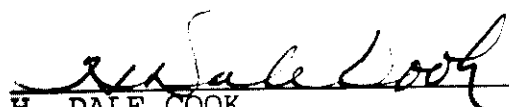
Fed.R.Civ.P. 41(a)(2)

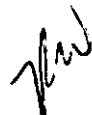
M O T I O N

Plaintiffs and Defendant Anchor Packing Company jointly
move this Court for an Order of Dismissal Without Prejudice of
the above-styled action.

O R D E R


Upon the above and foregoing Joint and Stipulated Motion
for Order of Dismissal Without Prejudice, the above-styled action
is hereby dismissed without prejudice as to Anchor Packing Com-
pany, each party to bear its own costs.


H. DALE COOK
U.S. DISTRICT COURT JUDGE


OCT 17 1989 

APPROVED:

LAW OFFICES OF
JOHN W. NORMAN INCORPORATED
ATTORNEYS FOR PLAINTIFFS

By: 
JOHN W. NORMAN - OBA #6699
GINA L. HENDRYX - OBA #10330
Renaissance Centre East
127 N.W. 10th
Oklahoma City, OK 73103-4903
405/272-0200

RHODES, HIERONYMOS, JONES, TUCKER & GABLE
ATTORNEYS FOR DEFENDANT ANCHOR PACKING COMPANY

By: 
CHRIS L. RHODES
2800 Fourth National Bank Bldg.
Tulsa, OK 74119
918/582-1173

JWN/ta
10/05/89

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

EVERETT ORVILLE HEMANN, and)	
MARIAN M. HEMANN, Plaintiff's Spouse,)	
)	
Plaintiffs,)	
)	
vs.)	No. 88-C-701-E
)	
ANCHOR PACKING COMPANY, et al.,)	
)	
Defendants.)	

STIPULATED JOINT MOTION FOR,
AND ORDER OF, DISMISSAL
WITHOUT PREJUDICE AS TO DEFENDANT
ANCHOR PACKING COMPANY

Fed.R.Civ.P. 41(a)(2)

M O T I O N

Plaintiffs and Defendant Anchor Packing Company jointly
move this Court for an Order of Dismissal ~~Without Prejudice~~ of
the above-styled action.

OCT 17 1989

O R D E R

Jack C. Silver,
U.S. DISTRICT COURT

Upon the above and foregoing Joint and Stipulated Motion
for Order of Dismissal Without Prejudice, the above-styled action
is hereby dismissed without prejudice as to Anchor Packing Com-
pany, each party to bear its own costs.

/s/ JAMES O. ELLISON

JAMES O. ELLISON
U.S. DISTRICT COURT JUDGE

NOTE: THIS ORDER IS TO BE MAILED
BY MOVANT TO ALL CO-DEFENDANTS
PRO SE LITIGANTS IMMEDIATELY
UPON RECEIPT.

APPROVED:

LAW OFFICES OF
JOHN W. NORMAN INCORPORATED
ATTORNEYS FOR PLAINTIFFS

By: 

JOHN W. NORMAN - OBA #6699
GINA L. HENDRYX - OBA #10330
Renaissance Centre East
127 N.W. 10th
Oklahoma City, OK 73103-4903
405/272-0200

RHODES, HIERONYMOS, JONES, TUCKER & GABLE
ATTORNEYS FOR DEFENDANT ANCHOR PACKING COMPANY

By: 

CHRIS L. RHODES
2800 Fourth National Bank Bldg.
Tulsa, OK 74119
918/582-1173

JWN/lc
10/04/89

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

OCT 11 1989

EVERETT ORVILLE HEMANN, and
MARIAN M. HEMANN, Plaintiff's Spouse,

Plaintiffs,

vs.

ANCHOR PACKING COMPANY, et al.,

Defendants.

No. 88-C-701-E

STIPULATED JOINT MOTION FOR,
AND ORDER OF, DISMISSAL
WITHOUT PREJUDICE AS TO DEFENDANT
GARLOCK, INC.

Fed.R.Civ.P. 41(a)(2)

M O T I O N

Plaintiffs and Defendant Garlock, Inc., jointly move
this Court for an Order of Dismissal Without Prejudice of the
above-styled action.

OCT 17 1989

O R D E R

Jack C. Sherr, Clerk
U.S. DISTRICT COURT

Upon the above and foregoing Joint and Stipulated Motion
for Order of Dismissal Without Prejudice, the above-styled action
is hereby dismissed without prejudice as to Garlock, Inc., each
party to bear its own costs.

by JAMES O. ELLISON

JAMES O. ELLISON
U.S. DISTRICT COURT JUDGE

NOTE: THIS ORDER IS TO BE FILED
BY MOVANT TO ADJUDICATE
PRO SE LITIGANTS WAREHOUSE
UPON RECEIPT.

APPROVED:

LAW OFFICES OF
JOHN W. NORMAN INCORPORATED
ATTORNEYS FOR PLAINTIFFS

By: 

JOHN W. NORMAN - OBA #6699
GINA L. HENDRYX - OBA #10330
Renaissance Centre East
127 N.W. 10th
Oklahoma City, OK 73103-4903
405/272-0200

DURBIN, LARIMORE & BIALICK
ATTORNEYS FOR DEFENDANT GARLOCK, INC.

By: 

STEVEN S. BOAZ
920 N. Harvey
Oklahoma City, OK 73102-2610
405/235-9584 (O)
405/235-0551 (F)

JWN/ta
10/05/89

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

OCT 13 1989

JOHNNIE JUNIOR ENGLAND, and
KATHRYN JANIE ENGLAND, Plaintiff's Spouse,

Plaintiffs,

vs.

ANCHOR PACKING COMPANY, et al.,

Defendants.

Jack C. Silver, Clerk
U.S. DISTRICT COURT

No. 88-C-709-C

STIPULATED JOINT MOTION FOR,
AND ORDER OF, DISMISSAL
WITHOUT PREJUDICE AS TO DEFENDANT
GEORGIA TALC COMPANY

Fed.R.Civ.P. 41(a)(2)

M O T I O N

Plaintiffs and Defendant Georgia Talc Company jointly
move this Court for an Order of Dismissal Without Prejudice of
the above-styled action.

O R D E R

Upon the above and foregoing Joint and Stipulated Motion
for Order of Dismissal Without Prejudice, the above-styled action
is hereby dismissed without prejudice as to Georgia Talc Company,
each party to bear its own costs.

(Signed) H. Dale Cook

H. DALE COOK
U.S. DISTRICT COURT JUDGE

APPROVED:

LAW OFFICES OF
JOHN W. NORMAN INCORPORATED
ATTORNEYS FOR PLAINTIFFS

By: 

JOHN W. NORMAN - OBA #6699
GINA L. HENDRYX - OBA #10330
Renaissance Centre East
127 N.W. 10th
Oklahoma City, OK 73103-4903
405/272-0200

FOLIART, HUFF, OTTAWAY & CALDWELL
ATTORNEYS FOR DEFENDANT GEORGIA TALC COMPANY

By: 

DAVID ROSS
First National Center, 20th Floor
Oklahoma City, OK 73102
405/232-4633

JWN/ta
10/05/89

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

F I L E D

OCT 13 1989

HOWARD RICHARD GREEN, and
HELEN M. GREEN, Plaintiff's Spouse,

Plaintiffs,

vs.

ANCHOR PACKING COMPANY, et al.,

Defendants.

Jack C. Silver, Clerk
U.S. DISTRICT COURT

No. 88-C-706-C

STIPULATED JOINT MOTION FOR,
AND ORDER OF, DISMISSAL
WITHOUT PREJUDICE AS TO DEFENDANT
GEORGIA TALC COMPANY

Fed.R.Civ.P. 41(a)(2)

M O T I O N

Plaintiffs and Defendant Georgia Talc Company jointly
move this Court for an Order of Dismissal Without Prejudice of
the above-styled action.

O R D E R

Upon the above and foregoing Joint and Stipulated Motion
for Order of Dismissal Without Prejudice, the above-styled action
is hereby dismissed without prejudice as to Georgia Talc Company,
each party to bear its own costs.

(Signed) H. Dale Cook

H. DALE COOK
U.S. DISTRICT COURT JUDGE

APPROVED:

LAW OFFICES OF
JOHN W. NORMAN INCORPORATED
ATTORNEYS FOR PLAINTIFFS

By: 

JOHN W. NORMAN - OBA #6699
GINA L. HENDRYX - OBA #10330
Renaissance Centre East
127 N.W. 10th
Oklahoma City, OK 73103-4903
405/272-0200

FOLIART, HUFF, OTTAWAY & CALDWELL
ATTORNEYS FOR DEFENDANT GEORGIA TALC COMPANY

By: 

DAVID ROSS
First National Center, 20th Floor
Oklahoma City, OK 73102
405/232-4633

JWN/ta
10/04/89

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

OCT 16 1989

HOWARD RICHARD GREEN, and)
HELEN M. GREEN, Plaintiff's Spouse,)
)
Plaintiffs,)
)
vs.)
)
ANCHOR PACKING COMPANY, et al.,)
)
Defendants.)

Jack C. Silver, Clerk
U.S. DISTRICT COURT

No. 88-C-706-C

STIPULATED JOINT MOTION FOR,
AND ORDER OF, DISMISSAL
WITHOUT PREJUDICE AS TO DEFENDANT
PFIZER, INC.

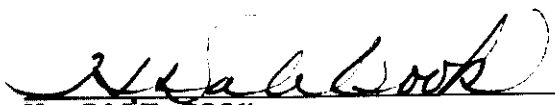
Fed.R.Civ.P. 41(a)(2)

M O T I O N

Plaintiffs and Defendant Pfizer, Inc., jointly move this
Court for an Order of Dismissal Without Prejudice of the above-
styled action.

O R D E R

Upon the above and foregoing Joint and Stipulated Motion
for Order of Dismissal Without Prejudice, the above-styled action
is hereby dismissed without prejudice as to Pfizer, Inc., each
party to bear its own costs.



H. DALE COOK
U.S. DISTRICT COURT JUDGE

OCT 17 1989 *you*

APPROVED:

LAW OFFICES OF
JOHN W. NORMAN INCORPORATED
ATTORNEYS FOR PLAINTIFFS

By: 

JOHN W. NORMAN - OBA #6699
GINA L. HENDRYX - OBA #10330
Renaissance Centre East
127 N.W. 10th
Oklahoma City, OK 73103-4903
405/272-0200

DAVIS, HOCKENBERG, WINE, BROWN, KOEHN & SHORS
ATTORNEYS FOR DEFENDANT PFIZER, INC.

By: 

MARGARET M. CHAPLINSKY
2300 Financial Center
555 Walnut Street
Des Moines, IA 50309
515/243-2300 (O)
515/243-0654 (F)

GLH/ta
10/11/89

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

OCT 18 1989

CLERK
U.S. DISTRICT COURT

JOHNNIE JUNIOR ENGLAND, and)
KATHRYN JANIE ENGLAND, Plaintiff's Spouse,)
)
Plaintiffs,)
)
vs.)
)
ANCHOR PACKING COMPANY, et al.,)
)
Defendants.)

No. 88-C-709-C

STIPULATED JOINT MOTION FOR,
AND ORDER OF, DISMISSAL
WITHOUT PREJUDICE AS TO DEFENDANT
SOUTHERN TALC COMPANY

Fed.R.Civ.P. 41(a)(2)

M O T I O N

Plaintiffs and Defendant Southern Talc Company jointly
move this Court for an Order of Dismissal Without Prejudice of
the above-styled action.

O R D E R


Upon the above and foregoing Joint and Stipulated Motion
for Order of Dismissal Without Prejudice, the above-styled action
is hereby dismissed without prejudice as to Southern Talc Com-
pany, each party to bear its own costs.

(Signed) H. Dale Cook

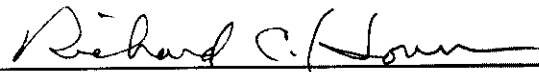
H. DALE COOK
U.S. DISTRICT COURT JUDGE

APPROVED:

LAW OFFICES OF
JOHN W. NORMAN INCORPORATED
ATTORNEYS FOR PLAINTIFF

By: 
JOHN W. NORMAN - OBA #6699
GINA L. HENDRYX - OBA #10330
Renaissance Centre East
127 N.W. 10th
Oklahoma City, OK 73103-4903
405/272-0200

ROGERS, HONN & ASSOCIATES
ATTORNEYS FOR SOUTHERN TALC COMPANY

By: 
RICHARD C. HONN
26 Oaks Office Park
2417 E. Skelly Drive
Tulsa, OK 74105

JWN/ta
10/04/89

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED
OCT 16 1989 *fw*

Jack C. Silver, Clerk
U.S. DISTRICT COURT

JOHNNIE JUNIOR ENGLAND, and)
KATHRYN JANIE ENGLAND, Plaintiff's Spouse,)
Plaintiffs,)
vs.)
ANCHOR PACKING COMPANY, et al.,)
Defendants.)

No. 88-C-709-C ✓

STIPULATED JOINT MOTION FOR,
AND ORDER OF, DISMISSAL
WITHOUT PREJUDICE AS TO DEFENDANT
PFIZER, INC.

Fed.R.Civ.P. 41(a)(2)

M O T I O N

Plaintiffs and Defendant Pfizer, Inc., jointly move this
Court for an Order of Dismissal Without Prejudice of the above-
styled action.

O R D E R

Upon the above and foregoing Joint and Stipulated Motion
for Order of Dismissal Without Prejudice, the above-styled action
is hereby dismissed without prejudice as to Pfizer, Inc., each
party to bear its own costs.

H. Dale Cook
H. DALE COOK
U.S. DISTRICT COURT JUDGE

APPROVED:

LAW OFFICES OF
JOHN W. NORMAN INCORPORATED
ATTORNEYS FOR PLAINTIFFS

By: 

JOHN W. NORMAN - OBA #6699
GINA L. HENDRYX - OBA #10330
Renaissance Centre East
127 N.W. 10th
Oklahoma City, OK 73103-4903
405/272-0200

DAVIS, HOCKENBERG, WINE, BROWN, KOEHN & SHORS
ATTORNEYS FOR DEFENDANT PFIZER, INC.

By: 

MARGARET M. CHAPLINSKY
2300 Financial Center
555 Walnut Street
Des Moines, IA 50309
515/243-2300 (O)
515/243-0654 (F)

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,)
)
Plaintiff,)
vs.)
)
WILLIAM BRADFORD INGE; MARY)
BETH INGE; DORIS ANN SIMON;)
COUNTY TREASURER, Tulsa County,)
Oklahoma; and BOARD OF COUNTY)
COMMISSIONERS, Tulsa County,)
Oklahoma;)
)
Defendants.)

CIVIL ACTION NO. 88-C-591-B

O R D E R

NOW, on this 17th day of October, 1988, there came on for consideration the Motion of the United States to amend the Judgment of Foreclosure previously entered herein on December 19, 1988. The Court finds said Motion is well taken.

NOW, IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the Judgment of Foreclosure previously entered herein on December 19, 1988, be and the same is hereby amended by deleting the words, "with appraisement," appearing in the first paragraph on page 5 of the Judgment and inserting in lieu thereof the words, "without appraisement."

S/ THOMAS R. BRETT

UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

MELBA S. OWENS,

Plaintiff,

v.

No. 89-C-284-C

STANDARD PARTS, INC.; an Oklahoma
corporation; AMERICAN FIDELITY
ASSURANCE COMPANY; EQUITABLE PLAN
SERVICES, INC.; and LOYALTY LIFE
INSURANCE COMPANY,

Defendants.

FILED
OCT 16 1989
U.S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

ORDER OF DISMISSAL WITHOUT PREJUDICE AS TO DEFENDANT,
STERLING INVESTORS LIFE INSURANCE COMPANY ONLY

By stipulation of the parties, and for good cause shown, it is hereby ordered that this matter is dismissed without prejudice as to Defendant, Sterling Investors Life Insurance Company, pursuant to Rule 41 of the Federal Rules of Civil Procedure.


JUDGE OF THE DISTRICT COURT

336-129/PTB/dlb

KLW/tmm

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

KIMBERLY SERVICES, INC.,

Plaintiff,

vs.

GROUP HEALTH SERVICES OF
OKLAHOMA, INC., d/b/a BLUE
CROSS BLUE SHIELD OF OKLAHOMA,
BLUE CROSS BLUE SHIELD OF
MICHIGAN, and GENERAL MOTORS,
INC.,

Defendants.

FILED
OCT 18 1989
KIMBERLY SERVICES, INC.
vs. GROUP HEALTH SERVICES OF
OKLAHOMA, INC., d/b/a BLUE
CROSS BLUE SHIELD OF OKLAHOMA,
BLUE CROSS BLUE SHIELD OF
MICHIGAN, and GENERAL MOTORS,
INC.

Case No. 89-C-286 C

ORDER GRANTING DISMISSAL

For good cause shown, and based upon the Joint Application of the parties showing that this case has been settled, the Court finds that this action should be dismissed with prejudice.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that this case is dismissed with prejudice against all defendants.


UNITED STATES DISTRICT JUDGE

JWN/ta
10/06/89

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

JOHNNIE JUNIOR ENGLAND, and)
KATHRYN JANIE ENGLAND, Plaintiff's Spouse,)
)
Plaintiffs,)
)
vs.) No. 88-C-709-C✓
)
ANCHOR PACKING COMPANY, et al.,)
)
Defendants.)

OCT 10 1989
JACK C. SLYTER, CLERK
U.S. DISTRICT COURT

STIPULATED JOINT MOTION FOR,
AND ORDER OF, DISMISSAL
WITHOUT PREJUDICE AS TO DEFENDANT
C. P. HALL COMPANY

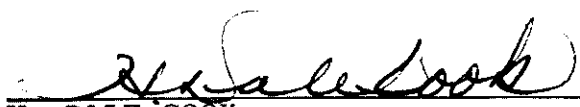
Fed.R.Civ.P. 41(a)(2)

M O T I O N

Plaintiffs and Defendant C. P. Hall Company jointly move
this Court for an Order of Dismissal Without Prejudice of the
above-styled action.

O R D E R

Upon the above and foregoing Joint and Stipulated Motion
for Order of Dismissal Without Prejudice, the above-styled action
is hereby dismissed without prejudice as to C. P. Hall Company,
each party to bear its own costs.


H. DALE COOK
U.S. DISTRICT COURT JUDGE

05116 L10

U.S. DISTRICT COURT

APPROVED:

LAW OFFICES OF
JOHN W. NORMAN INCORPORATED
ATTORNEYS FOR PLAINTIFFS

By: 

JOHN W. NORMAN - OBA #6699
GINA L. HENDRYX - OBA #10330
Renaissance Centre East
127 N.W. 10th
Oklahoma City, OK 73103-4903
405/272-0200

McGIVERN, SCOTT, GILLIARD, McGIVERN & ROBINSON
ATTORNEYS FOR DEFENDANT C. P. HALL COMPANY

By: 

DANIEL L. CRAWFORD
P.O. Box 2619
Tulsa, OK 74101-2619
918/584-3391 (O)
918/592-2416 (F)

JWN/ta
10/04/89

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED
OCT 11 1989
CLERK
DISTRICT COURT

JOHNNIE JUNIOR ENGLAND, and)
KATHRYN JANIE ENGLAND, Plaintiff's Spouse,)
)
Plaintiffs,)
)
vs.)
)
ANCHOR PACKING COMPANY, et al.,)
)
Defendants.)

No. 88-C-709-C ✓

STIPULATED JOINT MOTION FOR,
AND ORDER OF, DISMISSAL
WITHOUT PREJUDICE AS TO DEFENDANT
A. W. CHESTERTON COMPANY

Fed.R.Civ.P. 41(a)(2)

M O T I O N

Plaintiffs and Defendant A. W. Chesterton Company,
jointly move this Court for an Order of Dismissal Without Preju-
dice of the above-styled action.

O R D E R

Upon the above and foregoing Joint and Stipulated Motion
for Order of Dismissal Without Prejudice, the above-styled action
is hereby dismissed without prejudice as to A. W. Chesterton
Company, each party to bear its own costs.


H. DALE COOK
U.S. DISTRICT COURT JUDGE

OCT 16 1989

U.S. DISTRICT COURT

APPROVED:

LAW OFFICES OF
JOHN W. NORMAN INCORPORATED
ATTORNEYS FOR PLAINTIFFS

By: 

JOHN W. NORMAN - OBA #6699
GINA L. HENDRYX - OBA #10330
Renaissance Centre East
127 N.W. 10th
Oklahoma City, OK 73103-4903
405/272-0200

FELDMAN, HALL, FRADEN, WOODARD & FARRIS
ATTORNEYS FOR DEFENDANT A. W. CHESTERTON COMPANY

By: 

WILLIAM S. HALL # 5739
Park Centre, Suite 1400
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918/583-7129 (O)
918/584-3814 (F)

JWN/ta
10/04/89

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

OCT 11 1989

CLERK
COURT

HOWARD RICHARD GREEN, and)
HELEN M. GREEN, Plaintiff's Spouse,)
)
Plaintiffs,)
)
vs.) No. 88-C-706-C /
)
ANCHOR PACKING COMPANY, et al.,)
)
Defendants.)

STIPULATED JOINT MOTION FOR,
AND ORDER OF, DISMISSAL
WITHOUT PREJUDICE AS TO DEFENDANT
A. W. CHESTERTON COMPANY

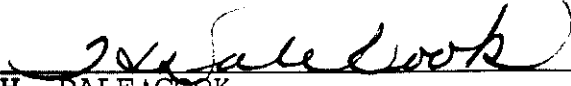
Fed.R.Civ.P. 41(a)(2)

M O T I O N

Plaintiffs and Defendant A. W. Chesterton Company,
jointly move this Court for an Order of Dismissal Without Preju-
dice of the above-styled action.

O R D E R

Upon the above and foregoing Joint and Stipulated Motion
for Order of Dismissal Without Prejudice, the above-styled action
is hereby dismissed without prejudice as to A. W. Chesterton
Company, each party to bear its own costs.


H. DALE COOK
U.S. DISTRICT COURT JUDGE

OCT 10 1989

B7

APPROVED:

LAW OFFICES OF
JOHN W. NORMAN INCORPORATED
ATTORNEYS FOR PLAINTIFFS

By: 

JOHN W. NORMAN - OBA #6699
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Oklahoma City, OK 73103-4903
405/272-0200

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By: 

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918/583-7129 (O)
918/584-3814 (F)

JWN/ta
10/04/89

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

F I L E D

001 11 1989

JOHNNIE JUNIOR ENGLAND, and
KATHRYN JANIE ENGLAND, Plaintiff's Spouse,

Plaintiffs,

vs.

ANCHOR PACKING COMPANY, et al.,

Defendants.

Jack C. Silver, Clerk
U.S. DISTRICT COURT

No. 88-C-709-C ✓

STIPULATED JOINT MOTION FOR,
AND ORDER OF, DISMISSAL
WITHOUT PREJUDICE AS TO DEFENDANT
GARLOCK, INC.

Fed.R.Civ.P. 41(a)(2)

M O T I O N

Plaintiffs and Defendant Garlock, Inc., jointly move
this Court for an Order of Dismissal Without Prejudice of the
above-styled action.

O R D E R

Upon the above and foregoing Joint and Stipulated Motion
for Order of Dismissal Without Prejudice, the above-styled action
is hereby dismissed without prejudice as to Garlock, Inc., each
party to bear its own costs.


H. DALE COOK
U.S. DISTRICT COURT JUDGE

10/10/89

127

APPROVED:

LAW OFFICES OF
JOHN W. NORMAN INCORPORATED
ATTORNEYS FOR PLAINTIFFS

By: 

JOHN W. NORMAN - OBA #6699
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405/235-9584 (O)
405/235-0551 (F)

JWN/ta
10/06/89

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

OCT 10 1989
JACK C. SAYER, CLERK
U.S. DISTRICT COURT

HOWARD RICHARD GREEN, and
HELEN M. GREEN, Plaintiff's Spouse,

Plaintiffs,

vs.

ANCHOR PACKING COMPANY, et al.,

Defendants.

No. 88-C-706-C

STIPULATED JOINT MOTION FOR,
AND ORDER OF, DISMISSAL
WITHOUT PREJUDICE AS TO DEFENDANT
C. P. HALL COMPANY


Fed.R.Civ.P. 41(a)(2)

M O T I O N

Plaintiffs and Defendant C. P. Hall Company jointly move
this Court for an Order of Dismissal Without Prejudice of the
above-styled action.

O R D E R

Upon the above and foregoing Joint and Stipulated Motion
for Order of Dismissal Without Prejudice, the above-styled action
is hereby dismissed without prejudice as to C. P. Hall Company,
each party to bear its own costs.


H. DALE COOK
U.S. DISTRICT COURT JUDGE

FILED
U.S. DISTRICT COURT

APPROVED:

LAW OFFICES OF
JOHN W. NORMAN INCORPORATED
ATTORNEYS FOR PLAINTIFFS

By: 

JOHN W. NORMAN - OBA #6699
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Oklahoma City, OK 73103-4903
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McGIVERN, SCOTT, GILLIARD, McGIVERN & ROBINSON
ATTORNEYS FOR DEFENDANT C. P. HALL COMPANY

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DANIEL L. CRAWFORD
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918/584-3391 (O)
918/592-2416 (F)

JWN/ta
10/05/89

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

HOWARD RICHARD GREEN, and
HELEN M. GREEN, Plaintiff's Spouse,

Plaintiffs,

vs.

ANCHOR PACKING COMPANY, et al.,

Defendants.

No. 88-C-706-C ✓

STIPULATED JOINT MOTION FOR,
AND ORDER OF, DISMISSAL
WITHOUT PREJUDICE AS TO DEFENDANT
ANCHOR PACKING COMPANY

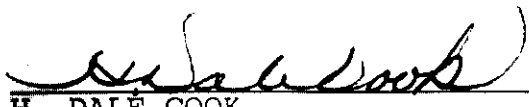
Fed.R.Civ.P. 41(a)(2)

M O T I O N

Plaintiffs and Defendant Anchor Packing Company jointly
move this Court for an Order of Dismissal Without Prejudice of
the above-styled action.

O R D E R

Upon the above and foregoing Joint and Stipulated Motion
for Order of Dismissal Without Prejudice, the above-styled action
is hereby dismissed without prejudice as to Anchor Packing Com-
pany, each party to bear its own costs.


H. DALE COOK
U.S. DISTRICT COURT JUDGE

FILED
OCT 16 1989
U.S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

APPROVED:

LAW OFFICES OF
JOHN W. NORMAN INCORPORATED
ATTORNEYS FOR PLAINTIFFS

By: 

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JWN/ta
10/05/89

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

OCT 11 1989

U.S. DISTRICT COURT

HOWARD RICHARD GREEN, and
HELEN M. GREEN, Plaintiff's Spouse,

Plaintiffs,

vs.

ANCHOR PACKING COMPANY, et al.,

Defendants.

No. 88-C-706-C

STIPULATED JOINT MOTION FOR,
AND ORDER OF, DISMISSAL
WITHOUT PREJUDICE AS TO DEFENDANT
NORTH GEORGIA MINERAL & CHEMICAL CORPORATION


Fed.R.Civ.P. 41(a)(2)

M O T I O N

Plaintiffs and Defendant North Georgia Mineral &
Chemical Corporation jointly move this Court for an Order of
Dismissal Without Prejudice of the above-styled action.

O R D E R


Upon the above and foregoing Joint and Stipulated Motion
for Order of Dismissal Without Prejudice, the above-styled action
is hereby dismissed without prejudice as to North Georgia Mineral
& Chemical Corporation, each party to bear its own costs.


H. DALE COOK
U.S. DISTRICT COURT JUDGE

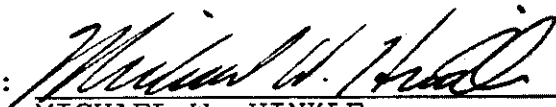
FILED
OCT 16 1989
U.S. DISTRICT COURT

APPROVED:

LAW OFFICES OF
JOHN W. NORMAN INCORPORATED
ATTORNEYS FOR PLAINTIFFS

By: 
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MILLS, WHITTEN, MILLS, MILLS & HINKLE
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MINERAL & CHEMICAL CORPORATION

By: 
MICHAEL W. HINKLE
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405/239-2500

JWN/ta
10/04/89

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

OCT 11 1989

Jack C. Silver, Clerk
U.S. DISTRICT COURT

HOWARD RICHARD GREEN, and
HELEN M. GREEN, Plaintiff's Spouse,

Plaintiffs,

vs.

No. 88-C-706-C

ANCHOR PACKING COMPANY, et al.,

Defendants.

STIPULATED JOINT MOTION FOR,
AND ORDER OF, DISMISSAL
WITHOUT PREJUDICE AS TO DEFENDANT
GARLOCK, INC.

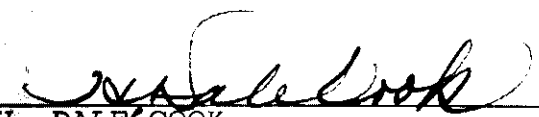
Fed.R.Civ.P. 41(a)(2)

M O T I O N

Plaintiffs and Defendant Garlock, Inc., jointly move
this Court for an Order of Dismissal Without Prejudice of the
above-styled action.

O R D E R

Upon the above and foregoing Joint and Stipulated Motion
for Order of Dismissal Without Prejudice, the above-styled action
is hereby dismissed without prejudice as to Garlock, Inc., each
party to bear its own costs.


H. DALE COOK
U.S. DISTRICT COURT JUDGE

FILED
OCT 10 1989
U.S. DISTRICT COURT

APPROVED:

LAW OFFICES OF
JOHN W. NORMAN INCORPORATED
ATTORNEYS FOR PLAINTIFFS

By: 

JOHN W. NORMAN - OBA #6699
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127 N.W. 10th
Oklahoma City, OK 73103-4903
405/272-0200

DURBIN, LARIMORE & BIALICK
ATTORNEYS FOR DEFENDANT GARLOCK, INC.

By: 

STEVEN S. BOAZ
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Oklahoma City, OK 73102-2610
405/235-9584 (O)
405/235-0551 (F)

JWN/ta
10/05/89

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

JOHNNIE JUNIOR ENGLAND, and
KATHRYN JANIE ENGLAND, Plaintiff's Spouse,
Plaintiffs,

vs.

ANCHOR PACKING COMPANY, et al.,
Defendants.

No. 88-C-709-O

STIPULATED JOINT MOTION FOR,
AND ORDER OF, DISMISSAL
WITHOUT PREJUDICE AS TO DEFENDANT
NORTH GEORGIA MINERAL & CHEMICAL CORPORATION


Fed.R.Civ.P. 41(a)(2)

M O T I O N

Plaintiffs and Defendant North Georgia Mineral &
Chemical Corporation jointly move this Court for an Order of
Dismissal Without Prejudice of the above-styled action.

O R D E R

Upon the above and foregoing Joint and Stipulated Motion
for Order of Dismissal Without Prejudice, the above-styled action
is hereby dismissed without prejudice as to North Georgia Mineral
& Chemical Corporation, each party to bear its own costs.


H. DALE COOK
U.S. DISTRICT COURT JUDGE

125
10/16/89
10/16/89

APPROVED:

LAW OFFICES OF
JOHN W. NORMAN INCORPORATED
ATTORNEYS FOR PLAINTIFFS

By: 

JOHN W. NORMAN - OBA #8699
GINA L. HENDRYX - OBA #10330
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405/272-0200

MILLS, WHITTEN, MILLS, MILLS & HINKLE
ATTORNEYS FOR DEFENDANT NORTH GEORGIA
MINERAL & CHEMICAL CORPORATION

By: 

MICHAEL W. HINKLE
500 One Leadership Square
211 N. Robinson
Oklahoma City, OK 73102
405/239-2500

(

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED

OCT 16 1988

8

ORVILLE PIERCE, JR. and NICKI PIERCE,

Plaintiffs,

vs.

UNITED STATES FIDELITY & GUARANTY, an
insurance corporation,

Defendant,

vs.

MARTI DYAN MCGINNIS,

Third-Party Defendant,

vs.

EMPLOYERS NATIONAL INSURANCE
CORPORATION,

Intervenor.

U.S. DISTRICT COURT

No. 88-C-1417-B

O R D E R

This matter comes on for consideration upon the issue between Defendant United States Fidelity & Guaranty ("USF&G") and Intervenor Employers National Insurance Corporation ("Employers National") as to their respective uninsured motorist coverages relative to the Plaintiff, Orville Pierce, Jr.

Plaintiff was injured by the alleged negligence of Marti Dyan McGinnis, an alleged uninsured motorist. A settlement has been reached by and between Plaintiff and the two insurance companies, leaving for decision by this Court, the respective liability of the companies under the policies issued.

Both USF&G and Employers National issued policies of insurance, with UM coverage therein,¹ to Plaintiff. Each policy contains a "Pro-rata - other applicable insurance" clause to the effect the company "will pay only our share of the loss."²

The Employers National policy covered the vehicle Plaintiff was driving³ when the accident occurred. USF&G's policy covered a different vehicle.⁴

Employers National argues its liability, because of the "Pro-rata, other insurance clause," is limited to 1/11th⁵ (\$550,000.00 ÷ \$50,000.00) of the settlement reached with Plaintiff. USF&G contends that, under Keel v. MFA Ins. Co., 553 P.2d 153 (Okla. 1976), the Employers National policy, because it covered the vehicle Plaintiff was driving when the accident occurred, must be

¹USF&G's UM coverage is \$500,000.00; Employers National's UM coverage is \$50,000.00.

²Employers National's policy provides: "If there is other applicable similar insurance we will pay only our share of the loss. Our share is the proportion that our limit of liability bears to the total of all applicable limits." USF&G's policy provides: "When two or more policies cover on the same basis, either excess or primary, we will pay only our share. Our share is the proportion of the limit our policy bears to the total of the limits of all the policies covering on the same basis."

³A 1982 Ford pick-up.

⁴A 1980 Chevrolet pick-up.

⁵Employers National corrects its earlier computation of liability as being 1/10th of Plaintiff's recovery.

first exhausted to the limit of its UM coverage⁸ before any liability attaches under USF&G's UM exposure.

The essential facts are undisputed and, by agreement of the parties, the matter is ripe for summary judgment on this issue.

USF&G's reliance upon Keel is, the Court concludes, in conflict with the plain language of the policies. Both policies include a pro-rata provision much different than the typical "other insurance" or excess escape clauses, typical in Keel and other similar cases. The pro-rata clauses work no detriment on the insured, who can stack and collect to the extent of his proof of damages and the total limits of both of the policies. No reason exists to void the pro-rata clauses. No public policy is violated, nor is an insured denied any right for which he paid.

Keel's statement as to using "other insurance" clauses, voidable by public policy when an attempt is made to place limits on an insured's recovery prospects, to determine priority is *dicta*. As the Court stated in Keel, "The pyramiding or the stacking of the policies is the only dispute." *Id.* at 156.

The Keel opinion relied heavily upon Eggleston v. Townsend, 336 F.Supp. 1212 (D.Md. 1972) in determining that the "priority" issue mandates first the application of the UM coverage available under the policy covering the vehicle involved in the accident. Several counterpoints suggest this reliance was misplaced. (1)

⁸\$50,000.00.

The Eggleston court was applying Virginia law; (2) the "other insurance or excess escape clauses" in Eggleston would have served to limit or defeat full satisfaction of the insured's judgment⁷; (3) attempts to tie UM coverage to vehicles rather than people are unavailing.⁸

The Court recognizes there are several types of "other insurance clauses." Those which purport to limit the coverage an insured paid for are void as against public policy. Keel and its progeny. Those that merely establish the order of payment between or among the insurance companies, with no attempt to limit the full recovery prospect of an insured, are entitled to be given full force and effect as is given the balance of the insurance contract.

There was no priority problem in Keel; both policies were from the same insurance company.⁹ Additionally, the "pro-rata clause" in Keel was, unlike the clauses in the case at bar, intertwined with language¹⁰ which attempted to "deem the damage limit." This,

⁷Unlike the "pro-rata clauses" in the case at bar which pose no such limitation.

⁸Recognized as recently as February 1989 in Justice Wilson's concurring opinion in Scott v. Cimarron Ins. Co., 774 P.2d 456 (Okla. 1989), at 458, and cases cited therein.

⁹MFA.

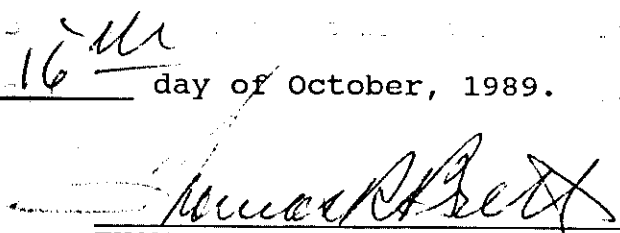
¹⁰"Except as provided in the foregoing paragraph, if the insured has other similar insurance available to him and applicable to the accident, the damages shall be deemed not to exceed the higher of the applicable limits of liability of this insurance and such other insurance, and the Company shall not be liable for a greater proportion of any loss to which this Coverage E applied

apparently in the Oklahoma Supreme Court's view in 1976, voided the entire phrase and caused the now-misplaced reliance upon Eggleston.¹¹

The Court concludes summary judgment should be entered assessing, as to Plaintiff's settlement, liability of Employers National to be 1/11th and liability of USF&G to be 10/11ths.

The parties are directed to submit, within ten days from the date hereof, an agreed Judgment setting forth in dollar amount the respective liabilities of each to the Plaintiffs, based on the Court's order herein.

IT IS SO ORDERED this 16th day of October, 1989.


THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

than the limits of liability hereunder bear to the sum of the applicable limits of liability of this insurance and such other insurance." [Emphasis supplied].

¹¹See Justice Wilson's concurring opinion in Scott, *supra*.